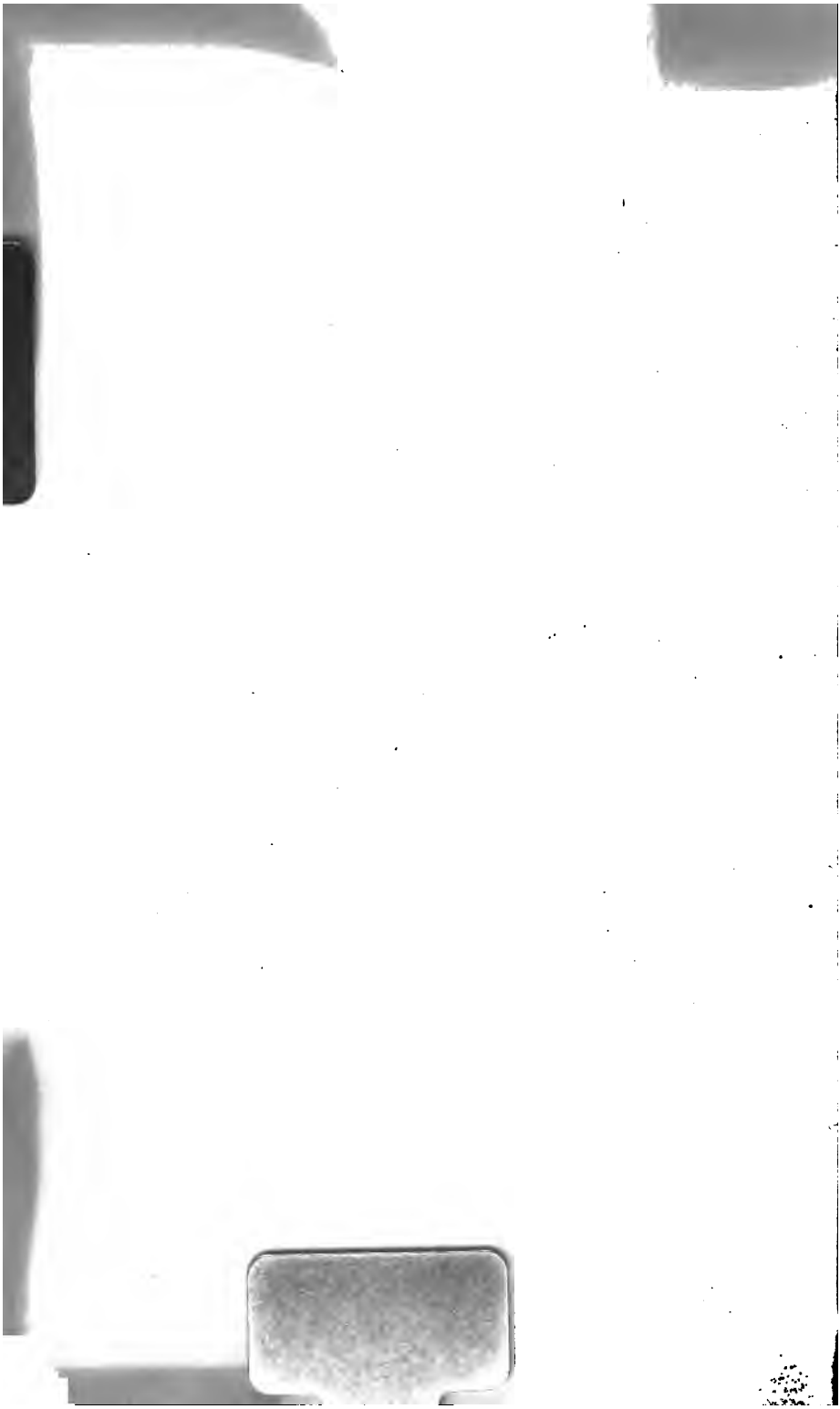

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ABRIDGMENT

OF

CASES UPON POOR LAW,

FROM 20 VICT. CAP. 19, TO 26 & 27 VICT. CAP. 125,

(1857 TO 1863,)

IN CONTINUATION OF MR. ARCHBOLD'S POOR LAW CASES.

VOL. IV.

BY

JAMES PATERSON, ESQ., M.A.,

BARRISTER-AT-LAW, ONE OF THE EDITORS OF THE "JUSTICE OF THE PEACE."

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ADVERTISEMENT.

As a collection of Poor Law Cases in an abridged form, and in a separate volume, has been found useful, if not indispensable, to those practically engaged in the administration of this part of the law, this fourth volume of the series has been prepared in continuation of the volumes of Mr. Lumley, and Mr. Archbold. The same plan with which the Profession and Poor Law Officers are familiar has been followed in the publication of the present volume, and the Cases decided up to the close of the year 1863 have been included.

JAMES PATERSON.

Goldsmith Buildings, Temple,
October, 1864.

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APPEAL. (*Lunatics (Pauper)*—16 & 17 *Vict. c.* 97, *s.* 111—*Appeal by Guardians—Signature of Notice by three Guardians—Local Act.*)

Guardians of the Poor of Norwich v. *Guardians of Cambridge Union*, 28 *J. P.* 7; 26 *J. P.* 359; 7 *L. T. N. S.* 675; 8 *Jur. N. S.* 362.

A LOCAL Act constituted certain parties the corporation of "the governor, deputy governor, and guardians of the poor of the city and county of Norwich and liberties of the same." A dispute having arisen between the guardians of the Cambridge Union and the guardians of the poor of Norwich as to the settlement of a lunatic pauper, the Cambridge guardians received a notice of appeal, signed by E. C. Bailey, "attorney for and on behalf of the said governor, deputy governor, and guardians." It was objected under 16 & 17 Vict. c. 97, s. 111, that the notice ought to have been signed by three guardians, and the court held the objection fatal, for that enactment applied to guardians under local Acts as well as under the Poor Law Amendment Act.

APPEAL. (*Order of Removal—Costs—Notice to wrong Sessions.*)

R. v. *Recorder of Berwick*, 27 *J. P.* 87; 7 *L. T. N. S.* 670.

A notice of appeal against an order of removal by mistake stated the appeal was to be to the county instead of to the borough sessions, but a correct notice was afterwards delivered, though too late. At the borough

sessions to which the appeal ought to have been, an application was made to enter and respite the appeal, but the deputy recorder reserved the point to the next sessions, when the recorder refused to grant the application. Held, that in those circumstances a *mandamus* did not lie to compel the recorder to hear the appeal, as it was a proper question for the recorder's discretion, and the court of Queen's Bench would not review that discretion.

See also *R.* v. *Justices of Norfolk*, 21 *J. P.* 435; 7 *E. & B.* 950. *R.* v. *Justices of Breconshire*, 21 *J. P.* 356; 7 *E. & B.* 951.

APPEAL. (*Notice—Removal Order—Time of Service—Next Sessions*)

R. v. *Justices of Sussex*, 26 *J. P.* 403; 30 *Law J. M. C.* 73; 3 *L. T. N. S.* 386; 6 *Jur. N. S.* 1150.

On an appeal against an order of removal, if the appellant parish has applied for and obtained a copy of the depositions, it has fourteen clear days thereafter to serve the grounds of appeal; and if at the end of such time there is not a period of fourteen more days before the next sessions commence, then, whatever other shorter period may suffice, by the local practice of sessions for giving notice of appeal, the appellant parish is not bound to try the appeal at such sessions, but is entitled to apply to that sessions to respite the appeal until the following sessions. Such is the result of the statutes 4 & 5 Will. 4, c. 76, s. 81, and 11 & 12 Vict. c. 31, s. 9. The time for serving grounds of appeal against a removal order is fourteen days in all cases before the commencement of the quarter sessions, whether notice of appeal has then been served or not.

APPEAL. (*Order of Removal—Notice of Appeal.*)

R. v. *St. Alkmunds*, 27 *J. P.* 263; 7 *L. T. N. S.* 622; 32 *Law J. M. C.* 99; 3 *B. & S.* 347; 9 *Jur. N. S.* 744.

The overseers of a parish to which a pauper was ordered to be removed on applying to the overseers of the removing parish (who were not bound to grant it) for a copy of the depositions, said, "it is intended to appeal against the order." Held, this was not a sufficient notice of appeal.

APPEAL. (*Removal—Adjournment to next Sessions.*)

R. v. *Kendal*, 28 *J. P.* 550; 28 *Law J. M. C.* 110; 5 *Jur. N. S.* 545; 32 *L. T.* 274.

An order for the removal of paupers, with notice of chargeability and statement of grounds of removal, was served by the removing parish on the 26th of January. On the 25th of February, notice of appeal to the then next quarter sessions was served, and on the 24th of March notice of the intention to prosecute at the then next quarter sessions was served, together with grounds of appeal. The appeal was called on at the next quarter sessions held on the 9th of April, and the appellant obtained an adjournment to the then next sessions on the ground of absence of a material witness. Fourteen clear days before the sessions to which the adjournment had taken place were held the appellant served fresh grounds of appeal, which comprised some of the old grounds, and omitting some of the old, introduced new grounds. The sessions quashed the order on evidence given in support of one of the new grounds of appeal. Held, distinguishing *R.* v. *Arlecdon*, 11 A. & E. 987, on the ground that in that case the appeal had been tried out, and only went over in consequence of an equal division of the bench, that the fresh grounds of appeal

had been well served, and that the quarter sessions were right. If it is right that the appellants who apply for an adjournment should not serve fresh grounds of appeal, they should be put under terms not to do so by an order of the sessions.

APPEAL. (*Costs—Vagrant Act—Distress Warrant—Overseer.*)

Whittington v. *Justices of Sheffield*, 24 *J. P.* 407; 29 *Law J. M. C.* 216.

An assistant overseer obtained a distress warrant under a conviction against Whittington for deserting his wife. On the day after the conviction Whittington gave notice of appeal, and duly entered into recognizances. The appeal was entitled Whittington, appellant, against the Justices, but the assistant overseer had been the informant, and was a witness. The appeal being dismissed, it was held, the court of quarter sessions had jurisdiction to give costs against the assistant overseer, though he was not nominally a party to the appeal.

APPEAL. (*Poor Rate—Party aggrieved—Notice.*)

R. v. *Cambridge Gas Company*, 23 *J. P.* 436; 33 *L. T.* 314.

The guardians under the local Act ordered a valuation of the rateable property of the Cambridge Gas Company, which was completed on the 31st August, 1858. On 1st September a copy of the valuation was sent by the clerk of the guardians to the company. On 4th September the valuation was published, and notices given as the local Act required, and all the parishes of the union made rates in obedience to contribution orders of 6th October. The quarter sessions for the borough next after the 6th October were held on the 18th October, and the sessions next but one after that day on 6th January. The company appealed against the valuation to the January sessions. Held, that the appeal was made to the proper sessions, for the time of appeal was to be calculated from the time of grievance, and there was no grievance till the guardians adopted the valuation and made known their adoption.

APPEAL. (*Reduction of Rate—Refunding excessive Rate.*)

R. v. *Parker*, 21 *J. P.* 549.

An appeal against a poor rate being referred to arbitration, the rate was reduced, and the overseers applied to the auditor for leave to refund the overcharge. The auditor refused without an order of sessions under 41 Geo. 3, c. 23, s. 8. Subsequent rates being unpaid, the justices refused to issue their distress warrant, and the court held this was right, and that the overseers need not get an order of sessions to justify their refunding the excess.

APPEAL. (*Removal Order—Respiting Appeal—Next Sessions—Costs.*)

R. v. *Skircoat*, 23 *J. P.* 502; 28 *Law J. M. C.* 224.

Courts of quarter sessions have a discretion as to allowing appeals against removal orders to be entered and respited, but they should consider whether the justice of the case requires an adjournment, and ought not to allow appeals to be entered and respited as a matter of course. On 13th September an order of removal was served on the

appellants, and notice of appeal was served upon the respondents on 2nd October following. By the practice of the sessions ten days' notice of appeal was required. The next sessions were held on 18th October, when upon a separate notice, according to practice, the appeal was entered and respited. On 18th December the appellants served on the respondents notice of their intention to try the appeal at the quarter sessions to be held on 4th January following, and at the same time served grounds of appeal, and at these sessions the appeal was heard, and the order of removal quashed. Upon objection that the appellants were bound to have given notice of their intention to try at the October sessions, and that they had no right to be heard at the January sessions, held, that the October sessions ought not to have adjourned the appeal, no reason being shown for delay, but that as the October sessions had in fact allowed the adjournment, the notice of intention to try at the January sessions was good, and the appellants had a right to try their appeal at those sessions.

APPEAL. (*Lunatic Pauper—Costs—Jurisdiction.*)

R. v. *Staffordshire, JJ.*, 22 *J. P.* 209; 26 *Law J. M. C.* 179; 3 *Jur. N. S.* 1148.

An order adjudicating a lunatic pauper settlement was appealed against to the Midsummer sessions, 1856, and confirmed, subject to a special case. No adjournment was ordered, nor were continuances entered. The six months for obtaining a writ of *certiorari* expired in December, 1856. At the Epiphany sessions, 1857, an application was made to the sessions for the costs of the appeal. Held, that the jurisdiction to grant the costs of the appeal was in the court which had heard and determined it, and not in any other court, therefore the Epiphany sessions could not entertain the application.

APPEAL. (*Poor Rate—Respiting Appeal—*17 *Geo.* 2, *c.* 38, *s.* 4.)

R. v. *Eyre*, 22 *J. P.* 37; 26 *Law J. M. C.* 14; 6 *E. & B.* 992; 3 *Jur. N. S.* 910; 2 *Jur. N. S.* 1207.

A poor rate was made 17th July, and on 20th September notice of appeal to the October sessions was given. The notice was accompanied with grounds of appeal, and a statement that the petition would only be presented and a respite prayed to the next following quarter sessions. Four days before the sessions the respondents gave notice that they would oppose the respiting of the appeal. The sessions refused to respite, and the appellants not proceeding with the appeal, it was dismissed with costs. Held, the notice of appeal was good, and as it was for the discretion of the sessions whether a reasonable notice of appeal within 17 Geo. 2, c. 38, s. 4, was given, their decision could not be interfered with.

APPEAL. (*Notice—Service—Entering and respiting Appeal.*)

R. v. *Eyre*, 22 *J. P.* 38.

A notice of appeal against a poor rate was addressed to the parish officers, and to 434 persons named, but was served only on the parish officers. Afterwards the party served a fresh notice of appeal on the parish officers only, omitting all notice of the scheduled persons, and

the grounds applicable to them. Held, the sessions rightly refused to hear the appeal, on the ground that the scheduled persons had not been served with the notice.

APPEAL. (*Removal—Next Sessions—Respiting Appeal.*)

Bromsgrove v. *Halifax*, *R.* v. *Justices of West Riding of York*, 23 *J. P.* 148; 27 *Law J. M. C.* 269; *E. B. & E.* 713; 31 *L. T.* 232; 5 *Jur. N. S.* 17.

An order of removal was dated 20th November, 1857. A copy of the depositions was received by the appellants on 12th December. On 23rd December the appellants sent a notice of appeal to the respondents, stating their intention to try at the sessions to be holden fourteen days at least from service of that notice. On 15th March, 1858, the notice and grounds of appeal were sent by post. The appeal was duly entered and set down for trial at Easter quarter sessions, held on 5th April, when the appeal was dismissed on the ground that it ought to have been entered and respited at the previous sessions of 5th January. Held, that the appellants were entitled, under 11 & 12 Vict. c. 31, to the twenty-one and fourteen days there mentioned, and if at the expiration of the fourteen days there is time for notice of trial of the appeal at the then next sessions, in that case notice ought to be given. On the other hand, if there is not then time to give the notice, the appeal ought to be entered and respited at the next sessions following the expiration of the fourteen days.

See also *R.* v. *Sussex Justices*, ante, p. 2.

APPEAL. (*Removal Notice—Mandamus to enter Continuances.*)

R. v. *Recorder of Richmond*, 22 *J. P.* 674; 27 *Law J. M. C.* 197; 4 *Jur. N. S.* 456; 31 *L. T.* 115.

A *mandamus* to enter continuances and hear an appeal against a removal order must be applied for during the term next after the sessions at which the appeal came on for hearing, and not afterwards. Notice of chargeability and statement of grounds of removal were sent by post on 28th September, and received in due course of post on 29th. The appellants sent by post application for depositions on 19th October, it was received on 20th, and copy sent on 21st, and notice of appeal given on the 28th. Held, the day of actually receiving the notice and statement was the day of sending within 11 & 12 Vict. c. 31, s. 9, that therefore the copy was applied for in twenty-one days, and the notice of appeal given in time.

APPEAL. (*Removal Order—Next practicable Sessions.*)

R. v. *JJ. of Peterborough*, 22 *J. P.* 20.

On 6th September an order of removal was made. On 9th September copy with notice of chargeability and grounds of removal were sent. On 21st September notice was sent that there would be an appeal. On 29th September depositions were applied for and sent. On 7th October notice of appeal for the Michaelmas quarter sessions was received. On 16th October the Michaelmas quarter sessions were held, when the appeal not having been entered or respited, respondents applied for costs, which were refused. On the 20th October the pauper was removed. On 23rd December a fresh notice of appeal was given for the Epiphany sessions, and on 8th January the Epiphany sessions were held. Held, that the appeal could not be maintained, for it ought to have been entered and respited at the Michaelmas quarter sessions.

APPEAL. (*Costs.*)

R. v. *JJ. of Hampshire*, 32 *Law J. M. C.* 46.

Where the court of quarter sessions has disposed of all that is judicial in reference to the appeal, the jurisdiction to tax costs is gone.

APPEAL. (*Adjournment of part-heard Case*).

R. v. *Cambridge Union*, 25 *J. P.* 560; 30 *Law J. M. C.* 137; 7 *Jur. N. S.* 1073; 1 *B. & S.* 61.

The court of quarter sessions has an inherent power at common law to adjourn a part-heard appeal to the next sessions.

APPEAL. (*Taxation of Costs after Sessions.*)

Freeman v. *Reed*, 25 *J. P.* 87; 30 *Law J. M. C.* 123; 7 *Jur. N. S.* 546.

The court of quarter sessions may competently make a standing order, that in all appeals the costs shall follow the event, unless the justices order the contrary in a particular case. The justices may direct their officer to tax the costs, and insert the amount of the taxation in the order, provided this is done before the end of the sessions; and even after the sessions, if the parties consent to have the costs taxed and judgment given *nunc pro tunc*, they cannot afterwards object for want of jurisdiction.

APPEAL. (*Taxation of Costs after Sessions.*)

Ex parte Watkins, 26 *J. P.* 71; 5 *L. T. N. S.* 605.

Where a party objects to an order of quarter sessions on the ground that the costs were taxed after the sessions were over, he ought to have protested before the taxing officer, for if he attend without protest he waives the irregularity.

APPEAL. (*Payment of Costs to Clerk of Peace.*)

Gay v. *Mathews*, 27 *J. P.* 247; 32 *Law J. M. C.* 58; 8 *L. T. N. S.* 674.

Where, on an appeal against a poor rate, the order of quarter sessions directs the appellant to pay a sum for costs to the clerk of the peace, to be by him paid over to the parties entitled to the costs, this is a valid order under 12 & 13 Vict. c. 45, s. 5. Replevin may be brought by the party distrained upon for such costs so ordered.

APPEAL. (*Costs incurred by preceding Overseers.*)

Ex parte Fletton, 24 *J. P.* 709; 2 *L. T. N. S.* 174; 29 *Law J. M. C.* 205; 6 *Jur. N. S.* 822.

On appeal against a poor rate, the notice was for the Epiphany sessions, at which sessions the then overseers applied for an adjournment to the Easter sessions next, which was granted, but on 26th March they gave notice of abandonment of the defence. New overseers being appointed before the hearing, who did not attend, the rate was quashed, with

costs, against the respondents. New overseers were again appointed the following year, when the appellant sought to enforce the order against the latter, and it was held he was entitled to do so.

APPEAL. (*To Poor Law Board—Distress Warrant.*)

R. v. *Denbighshire, JJ.* 33 *L. T.* 145.

Where there was an appeal to the poor law board pending as to a sum debited to the overseers, and certified to be correct by the auditor, the court refused to make a rule absolute on the justices to enforce payment.

APPEAL. (*Certiorari—Notice on behalf of Parish.*)

R. v. *Suffolk, JJ.*, 21 *Law J. M. C.* 169; 18 *Q. B.* 416.

A notice to justices of an application to remove by *certiorari* their order on an appeal, given by an attorney "on behalf of the inhabitants of the respondent parish," and signed by him as attorney for the inhabitants of such parish, is sufficient.

See also *R.* v. *Chiddingstone*, post, p. 9.

ASSISTANT OVERSEER. (*Embezzlement.*)

R. v. *Guelder*, 30 *Law J. M. C.* 34; 24 *J. P.* 742.

An assistant overseer received certain sums from the poor rates, and entered them as received, but instead of paying in the money to the bankers, falsely told the overseers he had done so, and got their receipts in order to deceive the poor law auditor. Held, he was guilty of embezzlement, though he had rightly charged himself in the books with receipt of the money.

ASSISTANT OVERSEER. (*Prosecuting Offence under Vagrant Act.*)

R. v. *Mirehouse*, 27 *J. P.* 88; 32 *Law J. M. C.* 90; 7 *L. T. N. S.* 721.

Where a complaint was laid against a man for deserting his wife and children, it was held to be no objection that the complaint was at the instance of the assistant overseer of the parish instead of the guardians of the union in which the parish was situate.

See also *Whittington* v. *Justices of Sheffield*, ante, p. 3.

ASSISTANT OVERSEER. (*Resignation and Re-appointment—Voter.*)

Caunter v. *Addams*, 9 *L. T. N. S.* 391; 9 *Jur. N. S.* 1295.

A claim to be rated with a view to vote for a member of parliament having been made to an assistant overseer, it was objected that the claim was void, because the party was not assistant overseer. The person had been duly appointed by the vestry and by justices. He afterwards gave notice of resignation, which was withdrawn, and his salary raised by the vestry, though he was not re-appointed by the justices nor the increase of salary confirmed. Held, he was assistant overseer, and a claim made to him was right.

AUDITOR. (*Parish under Local Act.—Power of Poor Law Board.*)

R. v. *St. James, Westminster*, 24 *J. P.* 37; 28 *Law J. M. C.* 172; 33 *L. T.* 346; 1 *E. & E.* 681.

The poor law board have power under the Poor Law Amendment Act, 4 & 5 Will. 4, c. 76, s. 46, to direct the appointment of an auditor for a parish which is regulated by a local Act, and notwithstanding it has adopted the Act of 1 & 2 Will. 4, c. 60, and under the Metropolis Local Management Act, 18 & 19 Vict. c. 120, has appointed auditors.

AUDITOR. (*4 & 5 Will. 4, c. 76, s. 46—Power of Poor Law Board to appoint—Metropolitan Parish under Local Act.*)

R. v. *Stockton*, *R.* v. *St. Pancras*, *E. B. & E.* 583; 22 *J. P.* 385; 27 *Law J. M. C.* 281; 5 *Jur. N. S.* 120.

The poor law board held entitled to order the appointment of an auditor in the parish of St. Pancras.

AUDITOR. (*Union Contribution Order—Union formed under 4 & 5 Will. 4, c. 76, s. 33.—24 & 25 Vict. c. 55, s. 9.*)

R. v. *Calthrop*, 27 *J. P.* 550; 11 *W. R.* 826.

Where under the Poor Law Amendment Act, 4 & 5 Will. 4, c. 76, s. 33, certain parishes had agreed to consider themselves as one parish for the purposes of settlements, and of dividing their expenses in certain proportions. Held, the stat. 24 & 25 Vict. c. 55, s. 9, which in terms applies to all unions formed under 4 & 5 Will. 4, c. 76, and applies a different mode of fixing the contributions to the union fund, comprehended this kind of union. Semble, it is the duty of a poor law auditor not only to see that the calculations contained in the accounts are correctly made, but that they proceed on a correct principle.

AUDITOR. (*Duty in disallowing Items.*)

R. v. *City of London Union*, 26 *J. P.* 295.

Where a poor law auditor disallows an item in the accounts, and directs it to be expunged, he is not bound to alter the balance with his own hands; nor is he bound to state what is to be done with it or who else is to be debited with the disallowed item.

AUDITOR. (*Opening up of old Accounts—Claim lost by Laches.*)

R. v. *Chiddingstone*, 26 *J. P.* 246; 2 *B. & S.* 294; 31 *Law J. M. C.* 121; 6 *L. T. N. S.* 44.

A lunatic pauper was sent by the parish of Chiddingstone to the county asylum, in 1854, and her maintenance was charged to the parish of Chiddingstone six years, when that parish discovered she had been irremovable in 1854, and so ought to have been charged to the common fund. The parish at the next audit claimed to have the accumulated charge for five years then standing in the union ledger against the parish disallowed. But the court held that the auditor rightly refused this, for he had no power to open up accounts previously audited.

AUDITOR. (*Untaxed Bill—Finality of Decision.*)

R. v. *Hunt*, 6 *E. & B.* 408; 20 *J. P.* 581; 25 *Law J. M. C.* 296; 2 *Jur. N. S.* 1138.

The right to remove by *certiorari* the auditor's decision as to an untaxed attorney's bill is taken away by 7 & 8 Vict. c. 101, ss. 35, 39, but if the clerk of the peace has previously taxed it, it is removable.

AUDITOR. (*Removing Allowance by Certiorari.*)

R. v. *Inhabitants of Chiddingstone*, 25 *J. P.* 118.

In removing by *certiorari* an allowance of accounts by a poor law auditor, a notice signed by the attorney on behalf of the inhabitants of the parish is sufficient, and it need not be stated to be on behalf of the overseers.

AUDITOR. (*Enforcing Allowance—Refreshments of Guardians—Jurisdiction of Justice to inquire.*)

R. v. *Finnis*, 23 *J. P.* 692; 1 *E & E.* 935; 28 *Law J. M. C.* 201; 33 *L. T.* 146; 5 *Jur. N. S.* 971.

The auditor, entitled to audit the accounts of a poor law union, found an item in part for money paid for a dinner and refreshments at an hotel at Hanwell, on a visit made by the guardians of the union to inspect the school and arrangements connected therewith at that place. He disallowed the part relating to the dinner and refreshment, on the ground that it had not been proved to him that such expenses were necessary, or properly chargeable on the poor rates, and surcharged three guardians by whose order the payment had been made, and entered the ground of disallowance at the foot of the certificate. There was no appeal against the disallowance and surcharge, neither was it brought up and quashed. The three guardians refused to pay, and were summoned before a magistrate for non-payment. The auditor proved what was required by 11 & 12 Vict. c. 91, s. 9, and called on the magistrate to issue his distress warrant. On the other side it was contended that he was bound to prove that he had given notice of his audit in some newspaper as required by 11 & 12 Vict. c. 91, s. 7, and had complied with the provisions of the statute as to the audit of accounts, that he could not object to part of the items, that he could not proceed against three guardians only, and that the expenses were properly incurred. Held, the magistrate had no jurisdiction to consider whether the expenses were properly incurred, that the objection of an irregularity in the audit could not be entertained, and that the magistrate was bound to issue his warrant as a ministerial act.

BASTARD. (*7 & 8 Vict. c.* 101—*4 & 5 Will. 4, c.* 76, *s.* 71—*Obligation of Mother's Executor to support Bastard Child.*)

Ruttinger v. *Temple*, 28 *J. P.* 71; 9 *L. T. N. S.* 256.

A mother of a bastard child is not bound at common law to support her child, whatever may be the age of the child, and though she is bound by statute 4 & 5 Will. 4, c. 76, s. 71, and 7 & 8 Vict. c. 101, to support such child till the age of 16, this is an obligation personal to herself and

dies with her, so that her administrator though having funds is not bound to support the child after the mother's death.

See also *R.* v. *Shepherd*, 26 *J. P.* 101, as to duty to supply medical assistance.

Overseers being now expressly prohibited from interfering with affiliation orders, that subject is now entirely disconnected from the poor law.

BURIAL BOARD. (*Several Townships.—Ecclesiastical District.*)

R. v. *Wright*, 26 *J. P.* 23; 8 *Jur. N. S.* 660.

The township of Minshull Vernon, within the parish of Middlewich, separately maintained its own poor, and was united with the township of Leighton, in the parish of Nantwich, into a separate ecclesiastical district, with a separate church, cemetery, and incumbent. Held, that the original parish of Middlewich required the consent of the home secretary to appoint a burial board for the whole parish of Middlewich under 20 & 21 Vict. c. 81, s. 9, and could not by its burial board call upon the township of Minshull Vernon to contribute to the expenses of the Middlewich burial ground.

BURIAL BOARD. (*United Parishes—Borrowing Money.*)

R. v. *Coleshill*, 26 *J. P.* 710; 2 *B. & S.* 825; 7 *L. T. N. S.* 244; 9 *Jur. N. S.* 226.

The parish of Amersham and the hamlet of Coleshill were distinct, and each maintained its own poor, highways, and constables, but for ecclesiastical purposes united, and had one church, one vestry, and up to 1860, one burial ground. The ratepayers of both met and resolved to have one burial board, and borrowed money on the security of the rates of Amersham. Held, they were united parishes within the stat. 18 & 19 Vict. c. 128, s. 11, and the hamlet of Coleshill was bound to contribute its proportion of the debt.

BURIAL BOARD. (*Ecclesiastical Parishes—Church Building Acts.*)

R. v. *Walcot St. Swithin*, 26 *J. P.* 548; 2 *B. & S.* 571; 31 *Law J. Q. B.* 232.

Though where a parish has been subdivided into ecclesiastical districts, it is competent for the vestry of the original parish to appoint a burial board for the entire parish, yet it is equally competent for each district afterwards to form a burial board of its own.

BURIAL BOARD. (*Ecclesiastical Parishes—Old Parish.*)

R. v. *Walcot*, 26 *J. P.* 500; 2 *B. & S.* 555; 31 *Law J. Q. B.* 232; 6 *L. T. N. S.* 320.

The fact that a common law parish has been subdivided into ecclesiastical or district parishes under 38 Geo. 3, c. 48, does not prevent the ratepayers of the entire original parish from appointing a burial board for the whole.

BURIAL BOARD. (18 & 19 *Vict. c.* 128, *s.* 18—*Liability to fence —Private Burial Ground.*)

R. v. *Burial Board of St. John, Westgate*, 25 *J. P.* 773; 2 *B. & S.* 703; 1 *B. & S.* 679; 31 *Law J. Q. B.* 204; 6 *L. T. N. S.* 504.

Where a private burial ground has been closed by order in council, the burial board of the parish or township is not bound to fence and keep it in repair, as the 18 & 19 Vict. c. 128, s. 18, applies only to public burial grounds.

BURIAL ACTS. (*Cemeteries under Local Acts—Exemption.*)

R. v. *JJ. of Manchester*, 20 *J. P.* 341; 5 *E. & B.* 702.

A burial ground annexed to a district church erected under the Church Building Acts is not a cemetery established under the authority of any Act of parliament within 16 & 17 Vict. c. 134, s. 5, that exemption only applying to cemeteries established by commercial companies authorized by Act of parliament.

BURIAL ACTS. (*Burial Fees—District Church.*)

Hornby v. *Toxteth Park*, 31 *Beav.* 52; 31 *Law J. Ch.* 643.

Where a burial ground is attached to a district church, for the benefit of strangers as well as inhabitants, the incumbent has no right to fees in the cemetery provided in lieu thereof under the Burial Acts.

BURIAL BOARD. (*Part of Parish—Rate.*)

Viner v. *Tunbridge*, 23 *J. P.* 773; 5 *Jur. N. S.* 1293.

If part of a parish under 18 & 19 Vict. c. 128, s. 12, has appointed a burial board, the rest of the parish may also appoint a separate burial board.

BURIAL BOARD. (*Places not maintaining own Poor.*)

R. v. *Sudbury*, 22 *J. P.* 706; *E. B. & E.* 264; 27 *Law J. Q. B.* 232; 4 *Jur. N. S.* 948.

The 15 & 16 Vict. c. 85, did not exclude places which had not separate overseers, and did not maintain their own poor, from appointing a burial board.

CLERK TO GUARDIANS. (*Superintendent Registrar of Births, &c.— Appointment.*)

R. v. *Acason*, 26 *J. P.* 436; 6 *L. T. N. S.* 335; 8 *Jur. N. S.* 841.

The clerk to the guardians of the union was absolutely entitled to the first appointment to the office of superintendent registrar of births, deaths, and marriages, according to 6 & 7 Will. 4, c. 86, s. 7, if he had the necessary qualifications, and thought fit to apply for it; but on every subsequent vacancy thereafter, the guardians have been and are entitled to appoint any other person who is properly qualified.

COLLECTOR OF POOR RATES. (*Accounting to Overseers.*)

Sellar v. *Griffin*, 27 *J. P.* 340; 9 *Jur. N. S.* 612; 8 *L. T. N. S.* 230.

The overseers of a metropolitan parish appointed a collector of poor rates, one condition of his bond being that he was to account to the then overseers and their successors in office. The collector accounted to the overseers who appointed him, and resigned his office. The succeeding overseers called for an account and delivery up of the parish rate books, and the Court of Chancery ordered him to account; but the accounts settled between him and the preceding overseers were not to be opened.

COLLECTOR OF POOR RATES. (*Surety—Discharge by Change of Duties.*)

Portsea Island Union v. *Whillier*, 24 *J. P.* 679; 29 *Law J. M. C.* 156; 2 *L. T. N. S.* 211; 6 *Jur. N. S.* 887.

The poor law commissioners ordered the guardians of a union to appoint one or more collectors of poor rates for the parish of Portsea, and three were appointed. The parish afterwards increased, and four were appointed. One of the four having resigned, and the parish still increasing, the guardians, by advertisement, announced that they would appoint two collectors for the parish of Portsea, "to one of whom would be assigned the collection of small tenement rates." P. applied for one of the collectorships, and was appointed and directed to collect the small tenement rates. He executed a bond with sureties. After some time one of the other collectors having died, P. applied to be removed to that district, and was removed accordingly, when he committed defalcations. Held, the change in duty did not discharge the sureties, for P. was appointed generally for the parish.

COLLECTOR OF POOR RATES. (*Action against Guardians—Poundage.*)

Smart v. *West Ham Union*, 20 *J. P.* 596; 11 *Exch.* 867; 25 *Law J. Exch.* 210.

The guardians of the West Ham Union, in pursuance of an order of the poor law board, appointed Smart a collector of poor rates for certain parishes, and he was to be paid by a poundage. He afterwards sued the guardians for unpaid poundage. Held, that as the remuneration was fixed by the poor law board, and the guardians entered into no contract to guarantee the poundage, but simply appointed him in obedience to the poor law board, no action lay against them.

COLLECTOR OF POOR RATES. (*Vestrymen present—Possession of Rate Books—Overseers.*)

R. v. *Christchurch*, 21 *J. P.* 533; 7 *E. & B.* 409; 29 *L. T.* 328.

By a local Act the churchwardens, overseers, and vestrymen of the parish of Christchurch, or the major part of them, were empowered to elect or remove, at any meeting held in the vestry room, a collector of poor rates. Held, this implied that those who were actually present at the meeting, whether voting or not, must be counted to make out a

majority, and therefore where the majority did not vote for a collector's removal, owing to many not voting at all, it was held that the collector was not duly removed. Held, further, that where it was necessary that the collector should have possession of the rate books to enable him to discharge his duty, a *mandamus* would lie to compel the overseers to deliver up the books for that purpose.

COUNTY RATE. (*Divided Parish—Partly in Borough.*)

R. v. *Huddersfield*, 26 *J. P.* 692; 1 *B. & S.* 961; 31 *Law J. M. C.* 131; 7 *L. T. N. S.* 157.

Where a parish is partly within a borough which is liable to contribute to the county rate, the proportion contributed by the parish to the county rate is payable out of the general funds of the whole parish, though that part which is within the borough contributes to, and is watched solely by, the borough police.

COUNTY RATE. (*Exemption—Borough with Non-intromittant Clause.*)

R. v. *East Looe*, 26 *J. P.* 564.

A borough incorporated by charter having power to hold separate quarter sessions, and with a non-intromittant clause, is within the definition of the word county in 15 & 16 Vict. c. 81, s. 51, and is not liable to the county rate, for it may have a rate of its own in the nature of a county rate.

COUNTY RATE. (*Exemption—Ancient Demesne.*)

R. v. *Aylesford*, 24 *J. P.* 534; 6 *Jur. N. S.* 297; 1 *L. T. N. S.* 328.

Tenants in ancient demesne are not exempted from payment to the county rate within 15 & 16 Vict. c. 81, s. 2.

COUNTY RATE. (*Basis of Assessment—Empty Houses.*)

R. v. *Hammersmith*, 33 *L. T.* 183.

A parish is not entitled to any deduction in respect of empty houses.

EXTRA-PAROCHIAL PLACE. (*Order of Poor Law Board—4 & 5 Will. 4, c. 76, ss. 26, 28, 32; 20 Vict. c. 19, s. 1; 24 & 25 Vict. c. 55, s. 9.*)

Overseers of Staple Inn v. *Guardians of Holborn Union*, 27 *J. P.* 695; 32 *Law J. M. C.* 181; 9 *Jur. N. S.* 652.

Staple Inn was an extra-parochial place having no poor, no overseer, and no poor rates, and was not included in the Holborn Union, which was duly formed in 1836, soon after the passing of 4 & 5 Will. 4, c. 76. Since 20 Vict. c. 19, an overseer was appointed, and the union, since 24 & 25 Vict. c. 55, made a contribution order on him. Held, the justices were right in enforcing the contribution order.

EXTRA-PAROCHIAL PLACE. (*Annexing to a Union.*)

R. v. *Boteler*, 27 *J. P.* 424; 28 *J. P.* 102; 32 *Law J. M. C.* 91.

An extra-parochial place may be annexed by the poor law board to a union without obtaining any consent of the owners of lands there, not-

withstanding 4 & 5 Will. 4, c. 76, s. 32. And if the justices refuse to enforce contribution from such place merely because they think the statute is unjust, the court of Queen's Bench will order them to issue their distress warrant.

EXTRA-PAROCHIAL PLACE. (*Retrospective Effect of* 20 *Vict. c.* 19.)

R. v. *St. Sepulchre, Northampton, E. & E.* 813; 28 *Law J. M. C.* 187; 33 *L. T.* 120.

The statute 20 Vict. c. 19, s. 1, had no retrospective operation.

EXTRA-PAROCHIAL PLACE. (*Cathedral Precincts.*)

Braithwaite v. *Hooke*, 26 *J. P.* 660.

The presumption is, where it is doubtful whether a cathedral existed before the institution of civil parishes, that the cathedral and precincts were, from the first, extra-parochial.

EXTRA-PAROCHIAL PLACE. (20 *Vict. c.* 19—*Entry in Registrar's Report.*)

Mytton v. *Thornbury*, 24 *J. P.* 180; 29 *Law J. M. C.* 109; 6 *Jur. N. S.* 341; 2 *L. T. N. S.* 12.

In a question as to whether Netherwood was an extra-parochial place, it appeared that since 1698 it had maintained its own poor. An agreement between a large owner in the parish of Thornbury and the then owners of Netherwood, whereby the latter agreed to maintain their own poor, and reciting that Netherwood was in the parish of Thornbury, was found in a chest of the former. In the registrar-general's report of the last census, it was entered Thornbury with Netherwood. Held, that Netherwood was part of the parish of Thornbury, the old agreement being admissible evidence of the fact, and the registrar-general not having entered it separately as a reputed extra-parochial place.

EXTRA-PAROCHIAL PLACE. (*Evidence of ancient Parish—Overseer.*)

R. v. *Cousins*, 28 *J. P.* 69.

The district of Upper Eldon, in the county of Southampton, belonged to one owner. In the ancient title deeds it was always called the rectory, manor, and parish of Upper Eldon. The labourers on the estate had generally resided in an adjoining parish. There were no poor. The church was in ruins, but there had been incumbents inducted up to 1859, the living being of nominal value. The registrar-general entered it separately as an extra-parochial place in the last census. There was only one householder in the place; viz., the tenant or farmer, and the justices appointed him overseer, and afterwards the guardians of Stockbridge Union made a contribution order on him for 4*l.* Held, that the presumption was, notwithstanding the census return, that Upper Eldon was a parish and not an extra-parochial place. That being so, the appointment of one overseer, under the statute of Elizabeth, was void, and therefore was quashed.

GUARDIANS. (*Guardians of Union—One Board suing another—Non-resident Poor.*)

Wycombe Union v. *Eton Union*, 21 *J. P.* 70; 1 *H. & N.* 687; 26 *Law J. M. C.* 97; 28 *L. T.* 256.

The guardians of the Wycombe Union gave relief to several non-resident poor of parishes within the Eton Union between Midsummer, 1845, and Lady Day, 1854. The relieving officer of the Eton Union requested the Wycombe Union to give such relief, and said the Eton Union would repay such relief, consisting of certain weekly sums to specified paupers. The clerk of the Wycombe Union sent from time to time accounts of the relief so given, but in no instance was the account sent in within fourteen days from the close of the quarter to which the accounts related, as required by the poor law consolidated order, sometimes however being sent a few days after such time. The guardians of Wycombe Union claimed a sum of 206*l.* in respect of relief of this kind extending over nine years, and brought an action to recover the amount, payments having been made within six years before the action. Held, that no action was competent by the guardians, seeing that such relief was given subject to the enactment of 4 & 5 Will. 4, c. 76, s. 49, that the accounts would be sent in under the regulations of the poor law board, which had not been complied with. Held, further, that the statute of limitations barred the right to recover all except the payments made within six years. Held, further, that the object of the statutes is, that guardians shall not apply the funds to relieve the poor of other unions, except on some contract with such union, or in case of urgent temporary relief. It seems an authority by guardians to another board of guardians to pay money for them need not be under seal.

GUARDIANS. (22 & 23 *Vict. c.* 49, *s.* 1.—*Action against—Limitation of Time.*)

Baker v. *Guardians of Billericay Union*, 28 *J. P.* 24; 9 *L. T. N. S.* 486; 9 *Jur. N. S.* 1201.

A medical officer of the Billericay Union was entitled to sundry payments for services of a special kind to paupers in the workhouse, according to the poor law consolidated order, article 177. He did not obtain payment within nine months after the debt was due, and brought an action thereafter, but within the period during which the poor law board has power to extend the time for suing. The time was not extended, and the court held that the plaintiff could not recover, as it was a condition precedent that he should either sue within the time limited by the stat. 22 & 23 Vict. c. 49, s. 1, or during the time extended by the poor law board, and neither of these conditions had been here satisfied.

GUARDIANS. (*Action against—Employing Accountant.*)

Haigh v. *North Bierley Union*, 23 *J. P.* 195; 28 *Law J. M. C.* 62; 31 *L. T.* 213; 5 *Jur. N. S.* 511; *E. B. & E.* 873.

The guardians of the North Bierley Union suspecting that their clerk had been embezzling their monies, by resolution of January, 1857, appointed an accountant to audit the accounts and inspect the books, and by another resolution of 26th March, employed him to make up the books of the union for the next audit. In the interval between the two resolutions

the clerk to the guardians committed suicide. The accountant reported defalcations, and by another resolution of 21st May, the guardians directed him to ascertain how these losses affected the different parishes in the union. The accountant having sued for work and labour, the guardians set up the defence that he was not employed under a contract under seal. Held, no seal was necessary, for it was work which was done for effecting the very purposes for which the guardians were appointed, and the plaintiff therefore was entitled to recover.

GUARDIANS. (*Union Fund—Contribution—Balance.*)

City of London Union v. *Acocks*, 24 *J. P.* 502; 8 *C. B. N. S.* 760.

An estimate was made by the clerk to the board of guardians of the sum which would be required for the coming half-year, and which included a balance existing at the beginning of the half-year, made up of balances of preceding half-years. Held, an order for contribution founded on such estimate was valid under 22 & 23 Vict. c. 49, s. 6.

GUARDIANS. (*Contribution Order—Balances.*)

Hales v. *City of London Union*, 24 *J. P.* 54; 6 *C. B. N. S.* 863; 29 *Law J. M. C.* 5.

The City of London Union funds had been embezzled by the collector for certain of the parishes therein, not including St. Mary Bothaw. The union guardians afterwards made a contribution order on that parish for 65*l.* It appeared from the union ledger that there was a larger balance to the credit of that parish of money actually paid in than the amount of the contribution order (the amount however having been stolen). Held, nevertheless, that the union guardians could not treat that balance as non-existing, and therefore their order was illegal as against St. Mary Bothaw.

GUARDIANS. (*Action against—Retrospective Rate.*)

Luce v. *City of London Union*, 24 *J. P.* 358.

Luce sued the City of London Union for a debt incurred four years before the passing of the Act 22 & 23 Vict. c. 49. By section 2, the guardians may pay such debt if the poor law board consent, and by section 4 the creditor is bound to sue within a year. Held, the creditor was not bound to obtain the consent of the poor law board before bringing the action.

See *Waddington* v. *City of London*, post, p. 35.

GUARDIANS. (*Union—Contribution—Common Fund.*)

Att.-Gen. v. *Wilkinson*, 23 *J. P.* 211; 28 *Law J. Ch.* 392.

Monies for the relief of the poor of the City of London Union were contributed by the parishes to the union, and were embezzled or stolen by the collectors, and the union was unable to pay its creditors. The guardians made a contribution order on the parishes to make up for the loss, but the validity of such orders was disputed, though a considerable sum had been paid into the treasury of the union. A creditor of the union sued the guardians and recovered, when the guardians filed their bill to restrain him from proceeding and from issuing execution on the judgment. Held, that the monies paid to the treasurer of the union

were not available to satisfy the judgment debt, and therefore the injunction was granted.

GUARDIANS. (*Accounts of Union—Balances—City of London Union.*)

R. v. *City of London Union*, 26 *J. P.* 295.

Certain surplus monies belonging to some of the parishes of the City of London Union, then in the hands of the union, were stolen. The guardians of the union applied part of their general funds to restore those balances to the credit of the parishes to which they belonged, and then debited the whole of the parishes of the union with the deficiency, under the head of common charges. The auditor disallowed this item. Held, the auditor was right in disallowing the item, for it was in effect throwing the loss, which originally fell on a few parishes, upon the whole parishes of the union.

GUARDIANS. (*Prosecution—Certiorari—Costs.*)

R. on Prosecution of West London Guardians v. ——, 15 *Q. B.* 1060.

The justices before whom a child chargeable to the parish, and an inmate of the workhouse, had been brought, and a party charged with ill-usage of the child, ordered the guardians to prosecute the party, which they did. The indictment being removed by *certiorari*, the defendant was convicted. Held, the guardians were entitled to their costs, for they were acting in their public office.

GUARDIANS. (*Gilbert's Union—One Union using Poorhouse of another Union.*)

R. v. *Shaw*, 24 *J. P.* 390; 29 *Law J. M. C.* 211; 2 *L. T. N. S.* 435.

Two sets of townships united themselves into two Gilbert's unions under 22 Geo. 3, c. 83. One of such unions, not having any poorhouse, arranged with the other, which had one, that their paupers should be received into it. Expenses were incurred in enlarging the poorhouse for such increased accommodation, and a debt was incurred. The management of the poorhouse was in the hands of the union to which it belonged, the other union paying periodically to the treasurer of the first union the cost of maintenance of its own proper paupers. At the audit of the accounts of one of the townships composing the union, which had no poorhouse of its own, certain items were disallowed in respect of interest paid upon the before-mentioned debt, the maintenance of paupers in the house, and certain lunatic paupers sent by the poorhouse authorities to an asylum. Held, that the disallowance was correct, for that one such union could not avail itself of the poorhouse accommodation of another such union.

GUARDIANS. (*Deceased Lunatic—Administration to Property.*)

Mile End Old Town v. *Findlay*, 27 *J. P.* 760; 9 *L. T. N. S.* 346; 9 *Jur. N. S.* 1253.

Administration was granted to the clerk of the guardians to receive and apply funds of an intestate to which a lunatic in the workhouse was entitled.

See also *Upfall's Trusts*, 3 Mac. & G. 281.

LUNATICS (PAUPER). (*Order of Maintenance before* 16 *&* 17 *Vict. c.* 97.)

Knowles v. *Trafford*, 21 *J. P.* 452; 7 *E. & B.* 144; 26 *Law J. M. C.* 188; 26 *L. T.* 248; 3 *Jur. N. S.* 1018.

In January, 1851, a lunatic pauper was sent from Manchester to the county asylum. The pauper was then irremovable from Manchester. In September, 1851, two justices found the settlement to be in Ince, and ordered Ince to pay to Manchester the expenses, which was done, and this continued till 1853. Held, the liability of Ince was put an end to by 16 & 17 Vict. c. 97, s. 102, the statute under which the order was made being repealed, and such liabilities were not saved by the 102nd section.

LUNATICS (PAUPER). (*Order on Guardians—Recitals in Order.*)

R. v. *Crediton*, 22 *J. P.* 722; *E. B. & E.* 231; 27 *Law J. M. C.* 265; 31 *L. T.* 114; 4 *Jur. N. S.* 926.

Orders made by justices of the city and county of Exeter adjudicating a lunatic pauper's settlement, were addressed to the board of guardians of the Crediton Union, and to their clerk, and ordered the clerk to pay. It recited an order of justices. Held, that the order referred to in the recital must be assumed to have been valid, and that jurisdiction to adjudicate arises on the lunatic being *de facto* in confinement in the asylum. Held, further, that an order on the clerk of the guardians is the same as an order on the guardians.

LUNATICS (PAUPER). (*Justices' Order—Inquiry who sent Pauper.*)

R. v. *Faversham*, 26 *J. P.* 310; 31 *Law J. M. C.* 116; 2 *B. & S.* 275; 6 *L. T. N. S.* 415.

Where a lunatic pauper has been sent to a lunatic asylum by an order of a justice which is void, held, nevertheless, that the justices within whose jurisdiction the asylum is, may inquire into the settlement, and make an order of maintenance, it being no part of their duty to inquire how the pauper came to be sent to the asylum.

LUNATICS (PAUPER). (*Gilbert's Union—Order on Guardians.*)

R. v. *Bramley*, 26 *J. P.* 197; 1 *B. & S.* 732; 31 *Law J. M. C.* 11; 8 *Jur. N. S.* 209.

Where a lunatic pauper's settlement is in a parish which is part of a Gilbert's union, the order of maintenance is properly made, under 16 & 17 Vict. c. 97, s. 97, on the guardians of such union, and not on the overseers or guardians of the parish, the word union comprehending a Gilbert's union.

LUNATICS (PAUPER). (*Settlement not ascertained—Found in Borough.*)

Guardians of Birmingham v. *Birmingham*, 22 *J. P.* 623; 27 *Law J. M. C.* 181; 4 *Jur. N. S.* 686; 24 *J. P.* 85; 29 *Law J. M. C.* 56; 6 *Jur. N. S.* 218.

The borough of Birmingham has a separate court of quarter sessions, and has a lunatic asylum of its own. It does not contribute to the

county rate in respect of the county asylum, but it does so as to other matters. Held, an order could not lawfully be made on the treasurer of the borough of Birmingham for the expenses of a pauper lunatic found in the borough, and sent to the borough asylum, whose settlement could not be ascertained. See now 25 & 26 Vict. c. 111, s. 45.

LUNATICS (PAUPER). (*Non-settled Poor in Borough—Liability of Borough.*)

Birmingham Guardians v. *Bacchus*, 24 *J. P.* 85.

Where a lunatic pauper without a known settlement was found in a borough which did not contribute to the county asylum, but had an asylum of its own, it was not liable for the maintenance of such pauper under 16 & 17 Vict. c. 97.

But by the statute 25 & 26 Vict. c. 111, s. 45, this is remedied.

LUNATICS (PAUPER). (*Borough Asylum—Jurisdiction of County Sessions.*)

R. v. *JJ. of Warwickshire*, 23 *J. P.* 757; 28 *Law J. M. C.* 249; 33 *L. T.* 201; 5 *Jur. N. S.* 1292.

A pauper lunatic was sent to an asylum in the borough of Birmingham, from the parish of Birmingham, which is wholly in that borough, and was in the asylum at the charge of the borough of Birmingham. On evidence laid before two justices of the borough of Birmingham, which has a separate quarter sessions, they adjudicated the settlement of the pauper lunatic to be in St. Anne, Westminster, in the Strand Union, and under 16 & 17 Vict. c. 97, s. 97, ordered St. Anne's to pay to Birmingham the expenses. Notice of appeal to the next quarter sessions of Birmingham was given by St. Anne's, and afterwards, and in due time, changed into a notice for the next quarter sessions for the county of Warwick, in which Birmingham is situate. Upon motion to enter and respite the appeal at the next quarter sessions for the county of Warwick, the court refused to allow the appeal to be entered, on the ground that the appeal lay to the quarter sessions for the borough of Birmingham, and not to the quarter sessions for the county of Warwick. Held, that a writ of *mandamus* ought to issue to the justices of Warwickshire to enter continuances and hear the appeal, which lay to the quarter sessions for the county, and not to the quarter sessions for the borough.

LUNATICS (PAUPER). (*Settlement—Order on County—Subsequent Order on Parish.*)

All Saints', Poplar, v. *Clerk of Peace for Middlesex*, 24 *J. P.* 661; 29 *Law J. M. C.* 186; 2 *L. T. N. S.* 215; 6 *Jur. N. S.* 823.

When an order has been made by justices adjudging a pauper lunatic to be chargeable to the county, and it cannot then be shown in what parish the settlement is, the county is not precluded from afterwards applying, when the settlement is ascertained, for an order of reimbursement against the parish of settlement.

LUNATICS (PAUPER). (*Order on Overseers instead of Guardians.*)

R. v. *Inhabitants of Liverpool*, 24 *J. P.* 646; 28 *Law J. M. C.* 137; 2 *L. T. N. S.* 173; 6 *Jur. N. S.* 1028.

By a local Act, the churchwardens and overseers, together with twenty-one persons, were declared to be the "guardians of the poor of the parish of Liverpool." The justices made an order adjudging the settlement of a lunatic pauper on the churchwardens and overseers of the parish of Liverpool, which was served on the overseers, but not on the guardians. On appeal to quarter sessions the order was amended into an order on the guardians of the poor of the parish of Liverpool. Held, both orders were bad, and that the mistake was one of substance, and not of form, for the amending order sought to affect new parties who had not been before the court.

LUNATICS (PAUPER). (*Wife on a Visit—Order on Place of Settlement.*)

R. v. *Leeds*, 21 *J. P.* 582; 26 *Law J. M. C.* 37.

The pauper, Bessy Thorpe, lived with her husband in Leeds for twenty years. In July, 1856, while on a visit at Wakefield, she became a lunatic, and was sent to the county lunatic asylum, and three weeks after her husband died at Leeds. Her settlement was Thorne, a township of Leeds. Held, the order for maintenance was rightly made on the guardians of Leeds, for her accidentally becoming a lunatic at a place other than her settlement made no difference.

LUNATICS (PAUPER). (*Order of Maintenance—Retrospective Operation of* 24 *&* 25 *Vict. c.* 55, *s.* 6.)

Guardians of Droitwich Union v. *Guardians of Worcester Union*, 27 *J. P.* 630; 8 *L. T. N. S.* 276; 9 *Jur. N. S.* 1151.

Justices made an order under 16 & 17 Vict. c. 97, s. 97, adjudging a pauper lunatic's settlement to be in the parish of Claines, in the Droitwich Union, and ordering the guardians of the said union to pay on behalf of the parish of Claines the costs, examination, &c., of the pauper. The order was made on the 24th March, 1862, and next day the 6th section of the 24 & 25 Vict. c. 55, came into operation, that statute having passed in the previous session of parliament. Held, that the order was good, though next day a new state of things came into existence, under which such orders could no longer be made on the parish.

LUNATICS (PAUPER). (*Wife lunatic—Husband a Scotchman without English Settlement—Order on County*—16 & 17 *Vict. c.* 97.)

Clerk of Peace of Somersetshire v. *Overseers of Shipham*, 27 *J. P.* 437; 32 *Law J. M. C.* 83; 7 *L. T. N. S.* 673; 9 *Jur. N. S.* 869.

Where the wife of a Scotchman born in Scotland, and having no settlement in England, is sent by an English parish to a lunatic asylum under 16 & 17 Vict. c. 97, s. 97, this being the case of a lunatic whose settlement cannot be ascertained within the meaning of sect. 97, the expense of maintenance falls on the county. And it would be the same if the husband was a foreigner without any settlement in England.

LUNATICS (PAUPER). (*Wife living apart—Settlement—Irremovability.*)

East Retford Union v. *Strand Union*, 27 *J. P.* 229; 3 *B. & S.* 122; 32 *Law J. M. C.* 17.

A wife, Anne Blenkarne, had separated from her husband, with their mutual consent, and went and resided in the parish of St. Clement Danes, in the Strand Union. The husband, Charles Blenkarne, resided in the parish of Monks Coppenhall, in the Nantwich Union, and was irremovable there, his place of settlement being East Retford. The woman, becoming a lunatic, was sent by the parish of St. Clement Danes to the county lunatic asylum. Held, that the order of maintenance was properly made on the guardians of East Retford, for the wife would have been removable from St. Clement Danes, though if she had lived with her husband, she would have been irremovable in the parish where he was.

LUNATICS (PAUPER). (*Child of Foreign Parents born in England.*)

Newchurch v. *Tottington Lower End*, 27 *J. P.* 245; 3 *B. & S.* 107; 32 *Law J. M. C.* 19; 19 *Jur. N. S.* 536; 7 *L. T. N. S.* 271.

Every child born in England has, *primâ facie*, a birth settlement, if no other has been acquired from its parents. Hence, where a child was born in the parish of Newchurch, of Irish parents, neither of whom had any settlement in England, and the child lived with his parents in another parish until the age of eighteen, when, becoming a lunatic, he was sent to the lunatic asylum, it was held that the justices properly made an order of maintenance on the parish of Newchurch, and not on the county.

LUNATICS (PAUPER). (*Unemancipated Child—Mother Head of the Family.*)

St. Mary Arches, Exeter, v. *Manchester*, 26 *J. P.* 356; 1 *B. & S.* 890; 31 *Law J. M. C.* 77; 8 *Jur. N. S.* 457; 5 *L. T. N. S.* 637.

A pauper, Ann Cambridge, aged thirty, had always lived with her father and mother, being unable to take care of herself. The father had lived in the parish of Manchester more than five years, where he died in 1856. The pauper then continued to live with her mother till 1858, when the pauper went into the workhouse, and while in the workhouse, the mother, who had acquired no settlement in her own right, went to reside in the parish of Chorlton-upon-Medlock. Afterwards, in 1860, the pauper was sent from the workhouse to the county lunatic asylum. Held, that the pauper's irremovability floated with the mother's, and as, at the date of being sent to the asylum, the mother, by breaking her residence in Manchester, was removable thence, so was the pauper, and the parish of the father's settlement was thus chargeable with the pauper's maintenance in the asylum.

LUNATICS (PAUPER). (*Unemancipated Child—Father removing from Parish while Child in Asylum.*)

St. Giles v. *Strand Union*, 25 *J. P.* 227; 30 *Law J. M. C.* 12; 3 *L. T. N. S.* 292; 7 *Jur. N. S.* 161.

A child of eighteen years, after having lived unemancipated for more than five years with the father in the parish of St. Anne, Westminster,

was removed to the county lunatic asylum, and the expense charged on the common fund of the Strand Union, in which St. Anne's was. After three years, while the child so remained in the asylum, the father removed from St. Anne's. Held, the expense of the child's maintenance was still to be charged to the Strand Union, and not to the parish of the father's settlement, for under the 11 & 12 Vict. c. 111, s. 1, and 9 & 10 Vict. c. 66, s. 1, the child was irremovable when conveyed to the asylum. The court said it might be hard on a parish or union to continue to charge it with the pauper's maintenance after the father of the pauper had ceased to be irremovable; but the case seems to be a *casus omissus*.

LUNATICS (PAUPER). (16 & 17 *Vict. c.* 97, *s.* 102—*Sickness.*)

Hunslet Overseers v. *Dewsbury Union*, 20 *J. P.* 743; 2 *Jur. N. S.* 1207; 6 *E. & B.* 919; 26 *Law J. M. C.* 1.

A pauper lunatic was removed to the county asylum on 28th December, 1854, and maintained there at the expense of the township of Batley, in the Dewsbury Union, till September, 1855, when the pauper was discharged cured. In December, 1855, an order was obtained from two justices, adjudging the settlement of the pauper to be in the township of Hunslet, and making the usual order for the payment by Hunslet of the past expenses to the guardians of the Dewsbury Union, and of the future expenses to the treasurer of the asylum. Held, the order was right, for by the 102nd section of 16 & 17 Vict. c. 97, the lunacy was sickness within that section.

LUNATICS (PAUPER). (16 & 17 *Vict. c.* 97, *s.* 102—*Sickness—Appeal—Amendment.*)

R. v. *Manchester*, 20 *J. P.* 726; 6 *E. & B.* 919.

Lunacy comes within the word sickness, used in 9 & 10 Vict. c. 66, s. 4.

The court of quarter sessions, where the statement in writing, required to be sent under 16 & 17 Vict. c. 97, s. 107, was signed by three of the guardians, one of whom did not state his description, has power to amend, by adding such description.

LUNATICS (PAUPER). (*Irremovability—Common Fund.*)

R. v. *West Ward Union*, 21 *J. P.* 212; 26 *Law J. M. C.* 29; 3 *Jur. N. S.* 185.

In October, 1844, Henry Wilson, then having resided in Askham parish for eleven years, went into the union workhouse, and his maintenance was charged to the parish of Morland, by mistake, as the parish of settlement. In 1845 he was removed by order of a justice to the county lunatic asylum, and continued to be maintained at the expense of Morland till 1855, when it was found his settlement was in a parish in another county, but that he was irremovable in Askham. Held, he was thereafter properly chargeable to the union fund, the stat. 16 & 17 Vict. c. 97, applying to lunatics sent to the asylum before as well as after that Act.

LUNATICS (PAUPER). (*Grounds of Settlement—Signature by Overseers.*)

R. v. *Heaton*, 23 *J. P.* 612; 1 *E. & E.* 782; 28 *Law J. M. C.* 181; 33 *L. T.* 132; 5 *Jur. N. S.* 1008.

An order adjudging the settlement, and directing the maintenance of pauper lunatics, was made upon the complaint of the guardians of the poor of the Bradford Union for and on behalf of the township of Manningham, in the said union, and by the statement setting forth the grounds of adjudication, including the particulars of settlement of the lunatic, it appeared that the overseers of the said township were the parties who signed the said statement and particulars of settlement, and not the guardians of the Bradford Union. On appeal, it was contended for the appellants that the statement and particulars aforesaid should have been signed by three of the guardians, and not by the overseers. Held, as the order had been obtained for and on behalf of the township of Manningham, the words and the intention of the 16 & 17 Vict. c. 97, ss. 97, 107, entitled the overseers to sign the statement and particulars.

See now 24 & 25 Vict. c. 55, s. 57.

LUNATICS (PAUPER). (*Order on Guardians—Right of Overseers to appeal.*)

Halifax v. *Leeds*, 21 *J. P.* 164; 7 *E. & B.* 14.

Justices had made an order adjudging the settlement of a lunatic pauper to be in the township of Halifax, in the Halifax Union, and directing the union guardians to pay the costs of examination, &c., to the overseers of Leeds. The order was directed to the guardians of the Halifax Union, and served on the guardians as well as on the overseers of Halifax. Notice of appeal was given separately by the guardians, and also by the overseers of Halifax, and each set of officers entered the appeal. Held, that the overseers had a right to appeal as well as the guardians, and that the quarter sessions was bound to hear both, but to prevent inconvenience they should order them to be brought on and heard together.

LUNATICS (PAUPER). (*Asylum—Gift to Asylum.*)

Lechmere v. *Curtler*, 19 *J. P.* 709.

A testator bequeathed to the treasurer for the time being, appointed or to be appointed to an institution to be called "The Worcester Lunatic Asylum," the sum of 1,000*l.*, to be applied towards the carrying on and support of the humane and charitable purposes of that institution,—an asylum built under the compulsory provisions of the Act of parliament 8 & 9 Vict. c. 126, and supported entirely by rates for the maintenance of pauper lunatics alone. Held, not entitled to claim such a legacy, as not coming within the description.

METROPOLIS LOCAL MANAGEMENT. (*Metropolis Local Management Act—New Vestry—Local Act—Election of Governors of Poor.*)

R. v. *Rendle*, 25 *J. P.* 565; 1 *B. & S.* 54; 30 *Law J. M. C.* 135; 7 *Jur. N. S.* 1072.

The new vestry of St. John, Southwark, acquired the powers of an old vestry in appointing governors of the poor.

METROPOLIS LOCAL MANAGEMENT. (*Making Rate in default of Overseers.*)

R. v. *Glossop*, 32 *Law J. M. C.* 91.

The metropolitan board may appoint a person under 18 & 19 Vict. c. 120, s. 181, to make a rate in default of overseers to pay off old debts of commissioners of sewers.

TRANSFER OF POWERS TO RATE. (*Old Vestry.*)

Vaughan v. *Imray*, 23 *J. P.* 118; 28 *Law J. M. C.* 78; 7 *Jur. N. S.* 980; 33 *L. T.* 29.

The powers of the old vestry of Christchurch, Spitalfields, to make poor rates were transferred to the vestry constituted under 18 & 19 Vict. c. 120, and 19 & 20 Vict. c. 112.

METROPOLIS LOCAL MANAGEMENT. (*Powers of Vestry—Urinal.*)

Biddulph v. *St. Georges*, 9 *Jur. N. S.* 952; 8 *L. T. N. S.* 558.

Where the vestry of a metropolitan parish insisted on erecting a urinal at a place which was alleged to make it a nuisance to a neighbouring owner,—Held, the vestry having a discretion, they will not be interfered with if acting *bonâ fide*.

METROPOLIS LOCAL MANAGEMENT. (*Vestry ordering Privy.*)

St. Luke, Middlesex, v. *Lewis*, 26 *J. P.* 262; 8 *Jur. N. S.* 432.

The metropolitan vestry is entitled to insist on an owner of premises erecting privies under 18 & 19 Vict. c. 120, s. 81, and is not bound first to consider whether the existing accommodation can be improved.

NUISANCES REMOVAL. (*Penalty for not removing—Conviction.*)

R. v. *Jenkins*, 26 *J. P.* 775; 3 *B. & S.* 116; 9 *Jur. N. S.* 570; 32 *Law J. Q. B.* 50; 7 *L. T. N. S.* 272.

Where an owner has been ordered to abate a nuisance and has been convicted for disobedience under the Nuisances Removal Act, 1855, 18 & 19 Vict. c. 121, ss. 13, 14,) a warrant to levy the penalty, under sect. 20, cannot be issued without a previous summons to show cause.

NUISANCES REMOVAL. (*Owner Abroad—Service on Attorney.*)

Warton v. *Blything Union*, 27 *J. P.* 87; 32 *Law J.* 134, *Q. B.*; 9 *Jur. N. S.* 867; 7 *L. T. N. S.* 672.

An owner of premises was abroad when a nuisance on his premises was ordered to be abated, and when, on his default, the local authority did the work. The owner had appointed Warton, his attorney in this country, to receive the rents, but though the power of attorney was executed before, it did not reach Warton till after the making of the order for executing the works. Held, the expenses could not be recovered from Warton.

NUISANCES REMOVAL. (*Default or Sufferance of Owner.*)

Draper v. *Sperring*, 25 *J. P.* 566; 10 *C. B. N. S.* 113; 30 *Law J. M. C.* 341; 4 *L. T. N. S.* 365.

The owner of a market who received tolls on sheep exposed for sale on market days, was held liable to remove their droppings as a nuisance, caused by such owner's act, default, permission, or sufferance, under 18 & 19 Vict. c. 121, s. 12.

NUISANCES REMOVAL. (*Penalty for not abating—Summons.*)

R. v. *Local Board of Cardiff*, 20 *J. P.* 83.

Before a party can be convicted in a penalty for not obeying an order of justices to abate a nuisance, a summons must be issued.

NUISANCES REMOVAL. (*Local Authority—Written Order to prosecute.*)

Isle of Wight Company v. *Ryde Commissioners*, 25 *J. P.* 454.

There must be a written order from the local authority in each individual case to authorize a complaint before the justices, under 18 & 19 Vict. c. 121, s. 5.

NUISANCES REMOVAL. (*Days for appealing—Sunday.*)

Ex parte Simpkin, *R.* v. *Justices of Leicester*, 24 *J. P.* 263; 1 *L. T. N. S.* 93.

In counting the days for appeal against an order to abate, &c., Sunday must be included.

NUISANCES REMOVAL. (*Area of Jurisdiction—Cause of Nuisance.*)

R. v. *Cotton*, 24 *J. P.* 532; 28 *Law J. M. C.* 61; 1 *E. & E.* 203; 5 *Jur. N. S.* 311.

The justices have no jurisdiction unless the cause and effect of the nuisance be both within the area of the local authority. See also *R.* v. *Tatham*, 8 *E. & B.* 915; 27 *Law J. M. C.* 222; 4 *Jur. N. S.* 609.

NUISANCES REMOVAL. (*Use of Sewers—Assessment.*)

R. v. *Justices of Middlesex*, 25 *J. P.* 22; 30 *Law J. M. C.* 35.

The occupiers of houses which drain into a sewer may be assessed as using the sewer under 18 & 19 Vict. c. 121, s. 22.

NUISANCES REMOVAL. (*Expense of Sewer—Assessment.*)

R. v. *Gosse*, 24 *J. P.* 806; 30 *Law J. M. C.* 132; 3 *L. T. N. S.* 404; 6 *Jur. N. S.* 1369.

When a sewer has been made by the local authority, the primary fund for paying its expense is a rate on those using the sewer, and the highway rate is only auxiliary, under 18 & 19 Vict. c. 121, ss. 7, 22.

NUISANCES REMOVAL. (*Jurisdiction—Sea Shore—Extra-parochial.*)

R. v. *Gee*, 23 *J. P.* 374; 28 *Law J. M. C.* 298; 5 *Jur. N. S.* 1348.

The justices and local authority can order a nuisance on the sea shore within the line of high-water mark to be abated, though extra-parochial.

NUISANCES REMOVAL. (*Appeal—Limitation of Time.*)

R. v. *Middleton*, 23 *J. P.* 453; 28 *Law J. M. C.* 83; 5 *Jur. N. S.* 652.

The fourteen days for appealing against a rate run from the time the notice was left on the premises assessed.

OVERSEERS. (*Appointment by Justices—Nomination by Vestry.*)

R. v. *Hoole*, *R.* v. *Justices of Lancashire*, 24 *J. P.* 438; 29 *Law J. M. C.* 214; 2 *L. T. N. S.* 472.

The justices have a right to appoint overseers on their own authority, and are not bound to regard any nomination made by the inhabitants.

See also *Pember* v. *Evans*, 21 *J. P.* 438.

OVERSEERS. (*Action against—Debt of preceding Overseers.*)

Penfold v. *West*, 28 *J. P.* 68; 9 *L. T. N. S.* 650.

The plaintiff performed work and services for West and others, as overseers of the parish of Kingston-upon-Thames, and after their quitting office he performed other work for Jones and others, the succeeding overseers. He afterwards brought an action against Jones and others in respect of the work done for them as well as for their predecessors. Jones and others paid 60*l.* into court, which the plaintiff took out. Subsequently he brought an action against West and others for the amount incurred during their term of office, on the ground that as their successors were not liable to pay that debt, he had wrongly included it in the former action, and that he took out the 60*l.* solely in respect of the latter claim. West and others now pleaded equitably to this action, that the cause of action had been included in the former action, and was satisfied by the money paid into court. Held, that the plea was good, for though the statute 11 & 12 Vict. c. 91, does not transfer the debt of overseers to their successors, yet it authorizes the latter to pay such debts, and as this had been done by the former defendants, and 60*l.* had been paid in and accepted on both demands, the action could not be maintained.

OVERSEERS. (*Costs of Appeal incurred by old Overseers.*)

Ex parte Overseers of Fletton, 24 *J. P.* 709; 2 *L. T. N. S.* 174; 29 *Law J. M. C.* 205; 6 *Jur. N. S.* 822.

The churchwardens and overseers of Fletton made a rate assessing the Eastern Counties Railway Company at a certain amount. The company appealed, when the overseers appeared and asked a postponement, which was granted, with costs. Before the next quarter sessions new overseers were appointed, and having discovered the rate was bad nobody appeared for them at the hearing, when the rate was quashed, with costs

against "the overseers of Fletton." Held, the order for costs might be enforced against the existing overseers though no parties to the appeal, if proceeded against promptly.

OVERSEERS. (*Duty to receive Paupers removed— Indictment.*)

Ex parte Downton, 27 *Law J. M. C.* 281.

Where overseers refuse to receive a pauper who has been duly removed under an order of justices, the proper remedy is an indictment, and not a *mandamus* from the court of Queen's Bench to compel them to receive the pauper.

OVERSEERS. (*Hiring House for Parish Books and Business.*)

Ex parte Spottland, 24 *J. P.* 323; 2 *L. T. N. S.* 214.

The overseers were not entitled under the statute 17 Geo. 2, c. 3, to hire a house for the parish books to be inspected, and to pay expenses of coals and gas, &c., to keep up the house.

But see now 24 & 25 Vict. c. 125.

OVERSEERS. (*Collection of Borough Rate—Mandamus.*)

R. v. *Hunslet*, 1 *E. & E.* 775; 28 *Law J. M. C.* 180; 5 *Jur. N. S.* 913; 23 *J. P.* 276.

The town council of the borough of Leeds levied a borough rate under 5 & 6 Will. 4, c. 76, s. 92, the out-township of Hunslet being one of the townships assessed for such rate. The overseers having refused to pay, —Held, that the remedy of the town council, if any, for enforcing the payment, was by warrant of distress, issued by the mayor and two justices of the borough, under 7 Will. 4 & 1 Vict. c. 81, s. 1, and not by *mandamus* directed to the overseers.

OVERSEERS. (*Liability for Co-overseer.*)

R. v. *Jeffery*, 23 *J. P.* 277.

An overseer is not liable for the misappropriation by another co-overseer of sums collected for poor rates where he has not interfered in any way.

OVERSEERS. (*Distress on Overseers' Goods—Certiorari—Action.*)

R. v. *Justices of Lancashire*, 20 *J. P.* 102.

Justices having made an order for the payment by overseers of the parish of Ince for a certain sum for the maintenance of a pauper lunatic, such order was disobeyed, whereupon a warrant of distress was granted against their goods, and they paid the amount under protest. They then, with a view to quashing such order, before bringing an action under 11 & 12 Vict. c. 44, s. 2, obtained a *certiorari* to remove the order of payment to be quashed. The justices returned to the writ that there was no such order in writing. The overseers then moved for a rule calling on the justices to put such order into writing, and return the same to the court of Queen's Bench. Held, it was not necessary to have the order quashed before bringing the action, for there was nothing to quash, such orders not being put in writing.

OVERSEERS. (*Right to Inspection of Rate—Interest of Party.*)

Ex parte Briggs, 1 *E. & E.* 881.

The right of a ratepayer to inspect or take copies from parish accounts is only a private right, and to entitle him to a *mandamus*, ordering such inspection to be granted, he must show grounds of a special and public nature in support of his application.

OVERSEERS. (*Disorderly House—25 Geo. 2, c. 36, s. 5—Next Quarter Sessions.*)

R. v. *Charles*, 25 *J. P.* 758; 7 *Jur. N. S.* 1308.

If overseers or inhabitants enter into recognizances under 25 Geo. 2, c. 36, s. 5, to prosecute the keepers of disorderly houses "at the next quarter sessions," this means at the next borough quarter sessions if the parish is within a borough having quarter sessions.

OVERSEERS. (*Lists of Voters—Neglect of Duty—6 Vict. c. 18, s. 13.*)

Morgan v. *Parry*, 20 *J. P.* 149.

The overseers of the parish or township are directed by the stat. 6 Vict. c. 18, s. 13, to make out, on or before the last day of July, an alphabetical list of persons entitled to vote, and sign the same, and publish copies. The list, however, is not invalid, though not so signed by the overseers, however liable the overseers may be to be punished for neglect of duty.

OVERSEERS. (*Lists of Borough Voters—Town Clerk's Duty.*)

R. v. *Allday*, 22 *J. P.* 857; 7 *E. & B.* 799; 26 *Law J. M. C.* 203; 3 *Jur. N. S.* 961.

Held, the auditor rightly disallowed in the accounts of the guardians of Birmingham money paid to the town clerk in re-imbursement of charges for arranging and preparing list of voters, it not appearing that the town clerk could not have done the work by the aid of his ordinary staff of clerks.

OVERSEERS. (*Assistant Overseer—List of Voters.*)

Points v. *Allwood*, 6 *C. B.* 38; 13 *Jur.* 83.

An assistant overseer is an overseer within the 6 & 7 Vict. c. 18, s. 17.

OVERSEERS. (*Registration Lists—Putting Name on List wrongly.*)

Davies v. *Hopkins*, 21 *J. P.* 824.

An overseer may be liable to an indictment if he put a name wrongly on the list of voters, but the objection cannot be raised before the revising barrister, and the claimant is not bound to prove he sent due notice of claim to the overseers. It is enough that the name has got upon the list somehow.

OVERSEERS. (*Borough Voter—Voter receiving Parochial Relief.*)

Trotter v. *Trevor*, 27 *J. P.* 679; 32 *Law J. C. P.* 59; 7 *L. T. N. S.* 678.

A voter who has contributed towards his father's relief, the rest of such relief being paid by the guardians of the union, is not disqualified from voting under 2 Will. 4, c. 45, s. 36, as a person "receiving parochial relief."

OVERSEERS. (*Certificate as to Beerhouse—Licence.*)

Thompson v. *Harvey*, 23 *J. P.* 151; 32 *L. T.* 320.

The obtaining of the overseers' certificate under 3 & 4 Vict. c. 61, s. 12, is not a condition precedent to the granting of the licence so as to make the licence void if no certificate was given, owing to the refusal of the overseer to certify. But it seems if the licence is granted to one not really occupier of a house of the proper rent it is void.

As to damage caused by the refusal of the overseer to certify, see *Robbins* v. *Warren*, 31 *L. T.* 553.

OVERSEERS. (*Burgess List—Signing on 1st September.*)

Hunt v. *Hibbs*, 24 *J. P.* 118; 5 *H. & N.* 123; 29 *Law J. Exch.* 222; 6 *Jur. N. S.* 78; 1 *L. T. N. S.* 379.

By the 20 & 21 Vict. c. 50, s. 7, the overseers are bound to make out, sign, and deliver the burgess list to the town clerk on or before the 1st September in each year, failing which they are liable to a penalty of 50*l.* The penalty is incurred though the list is made out before the 5th September, and the list must be alphabetical, though if by some oversight this were otherwise, the penalty might not be enforceable.

OVERSEERS. (*Signing Jury Lists—Outgoing Churchwarden.*)

Bray v. *Somers*, 26 *J. P.* 279; 31 *Law J. M. C.* 175; 8 *Jur. N. S.* 716.

A churchwarden must continue to join the overseers in signing the jury lists after his year of office, till his successor is appointed and has subscribed the declaration, otherwise he is liable to a penalty under 7 Geo. 4, c. 50, s. 45.

OVERSEERS. (*Precept—Parish Constables.*)

R. v. *North Brierley*, 23 *J. P.* 133; *E. B. & E.* 519; 27 *Law J. M. C.* 275; 31 *L. T.* 179; 4 *Jur. N. S.* 784.

The overseers are bound to obey the precept of the justices who direct them to return lists of men qualified to serve as parish constables, for the justices have the sole discretion, and the inhabitants cannot interfere.

OVERSEERS. (*5 & 6 Vict. c. 109, s. 17—Constable's Expenses of apprehending Vagrants.*)

Overseers of Neithrop, Appellants, v. *Justices of Banbury, Respondents,* 27 *J. P.* 757.

Two justices made an order under 5 & 6 Vict. c. 109, s. 17, on the overseers of Neithrop to pay to a superintendent of police *4l. 5s.* for fees due to him. This sum consisted of expenses incurred in prosecuting vagrants. The justices satisfied themselves the expenses had been incurred, but the overseers declined to pay without having an account allowed in vestry under 18 Geo. 3, c. 19, and on the ground that the constable had not yet paid the fees of the clerk to the justices. Held, the objection was good.

PARISH. (*Alleged joint Parish—Joint Overseers.*)

R. v. *Tombleson,* 27 *J. P.* 150.

Two parishes called St. Peter and St. Mary, in Barton-on-Humber, the lands of which were intermixed, had each a separate church, but one patron, and one incumbent, who celebrated divine service in each church once each Sunday morning or evening alternately, and christened the children in either parish irrespective of the residence of the parents. There was also one parish clerk, one communion plate, and one burial ground. There had always been overseers, churchwardens, and surveyors of highways appointed for each parish separately, but the same poor rate in amount had always been assessed in both parishes, and when collected the amount was thrown into one fund and applied to the relief of the poor of both parishes indiscriminately. It was held that the preponderance of evidence was in favour of these being distinct and separate parishes, and hence a joint appointment of overseers for the united parishes was invalid.

PARISH. (*Boundaries—Sea Shore—Parochiality.*)

R. v. *Musson,* 22 *J. P.* 609; 8 *E. & B.* 900; 27 *Law J. M. C.* 100; 4 *Jur. N. S.* 111.

The sea shore is *primâ facie* extra-parochial, and therefore it lies on the parish officers to prove the contrary before rating it. The evidence will be founded on the property in the soil, perambulations, common reputation, known metes, and divisions. The occupiers of a pier at Yarmouth which commenced above high-water mark and extended continuously beyond low-water mark into the sea, were assessed to the poor rate of Yarmouth in respect of the whole pier. The parish officers gave no evidence of its site being in the parish. Held, the occupiers were rateable only in respect of that part of the pier covering land above high-water mark.

PARISH. (*Boundaries—Pier—Navigable River—Perambulations.*)

MacCannon v. *Sinclair,* 23 *J. P.* 757; 28 *Law J. M. C.* 247; 5 *Jur. N. S.* 1302; 33 *L. T.* 221.

The Commercial Dock Pier, in the parish of Rotherhithe, rests on the bed of the river Thames, between high and low water mark. In beating

the boundaries of the parish of Rotherhithe, it had been usual to keep along the bank of the river, but in beating the boundaries of the adjacent parish of Bermondsey, the practice has been to go along the middle of the river in boats. Held, that the presumption was, that the parish of Rotherhithe extended to the middle of the river, the beaters of the boundaries having gone as near to the extremity of the parish as the nature of the land admitted of, and therefore that the pier rested on land within the parish of Rotherhithe, and was rateable to the relief of the poor of Rotherhithe.

PARISH. (*Boundaries—43 Eliz. c. 2.—Street a Boundary.—Medium filum of Street—Metropolitan Parish—Paving Expenses.*)

R. v. *Strand District Board of Works*, 28 *J. P.* 37; 9 *L. T. N. S.* 374.

An ancient statute, 30 Ch. 2, created the parish of St. Anne, Soho, London, out of the parish of St. Martin-in-the-Fields, and described the boundary of St. Anne's at one part to be "all the houses abutting on and upon the road" (called Oxford Street). The other side of Oxford Street was in the parish of St. Marylebone, and in perambulating that parish, the parochial officers went along the middle of Oxford Street. In St. Anne's the parochial officers perambulated along the pavement on their side of Oxford Street. A map made in 1771 belonging to St. Anne's vestry, showed the line of St. Anne's parish to be the middle of the street. A dispute arose which parish was to bear the expense of paving Oxford Street, and St. Anne's sought to evade this burden by stating that their boundary did not extend into the middle of the street, but stopped with the line of houses on their side. There was no other evidence as to boundary. Held, the rule as between parishes bounded by a street was that the boundary was the middle line of the street, and there was nothing in the circumstances to displace that rule in this case.

PARISH. (*Lands—Sale—Charity—Alienation—Limitation.*)

St. Mary Magdalen College, Oxford, v. *Attorney General*, 21 *J. P.* 531; 6 *H. L. Cas.* 189.

The rector, churchwardens, and two principal inhabitants of the parish of St. Olave, Southwark, in 1790 sold, for the valuable consideration of a yearly rentcharge, a strip of parish land to the College of St. Mary Magdalen, Oxford. The land was waste and the origin of title unknown. The college added it to their other land and built houses on it, and regularly paid rent till 1847, when owing to the great value of the land, the inhabitants filed a bill in chancery to set aside the sale. Held, it was to be presumed, in the absence of evidence to the contrary, that those who conveyed the land had a title, but whether or not, that the statute of limitations, 3 & 4 Will. 4, c. 27, cut off the right of the poor of the parish, the poor coming within the description of "person" there used.

PARISH. (*Lands—Intermixed with Private Estate—Boundaries.*)

Attorney General v. *Stephens*, 20 *J. P.* 70.

Before 1634 lands held in trust for the poor of Putney had become intermixed with the Roehampton estate. In that year the owner of the estate admitted the fact, and agreed to charge the Roehampton estate with the payment of 6*l.* a year as rent for the lands intermixed. Entries

of these payments were made from time to time in the parish books, and the receipts expressed to be in respect of parish lands. The Roehampton estate had been subdivided and the title deed of a portion belonging to Mr. Stephens recited an annual payment of 6*l.* as due to the parish of Putney, which had been regularly paid by him. Held, in the absence of direct proof that any part of the parish lands was included in the defendant's estate, he was not estopped by the mere payment of rent from denying that he held the said land as tenant of the parish.

PARISH. (*Lands—Notice to quit—59 Geo. 3, c. 12, s. 17.*)

Hunt v. *Allgood*, 25 *J. P.* 614; 4 *L. T. N. S.* 215.

Certain lands were vested under 59 Geo. 3, c. 12, s. 17, in the churchwardens and overseers. The defendants being poor parishioners, claimed to hold the same as yearly tenants. Up to 1803, the lands were held at 4*s.* per acre, payable in advance. An Inclosure Act then passed, and the rent per acre was raised to 12*s.*, in order to pay the expenses of inclosure; such expenses were paid off in 1848. The tenants then claimed to hold at the original rent of 4*s.*, which they tendered. The churchwardens and overseers gave no notice to quit, but brought ejectment. Held, the defendants were yearly tenants and entitled to notice to quit, and what they had done did not amount to a disclaimer of title so as to justify ejectment.

PARISH. (*Lands—Part of Manor for Workhouse—Adverse Possession.*)

Hodgson v. *Hooper*, 24 *J. P.* 435.

The churchwardens and overseers of Mitcham, in 1781, obtained a grant of part of a manor to them and their heirs, on trust to build a workhouse thereon, paying a yearly rent of 5*s.* for ever. The grant was duly entered in the court rolls, though the land was not held according to the custom of the manor; possession was held till 1835, when the last of the grantees died, and a fine was paid to the lord on other persons representing the parish being re-admitted. The parish workhouse afterwards became unnecessary, and the parties surrendered to the lord in 1840, but latterly they again claimed the lands. Held, that as the parish were only tenants at will throughout, and determined their estate in 1840, and so lost all claim to the land.

PARISH. (*Lands—Attornment by Tenant.*)

Field v. *Merrison*, *Gray* v. *Balls*, 26 *J. P.* 5.

An information having been filed in chancery to set aside an improvident lease of parish lands, and judgment being in favour of the relator, the parish officers claimed possession from Gray holding as one of the assignees of the original lease. Gray wrote to his under-tenant to attorn, which was done, and rent was paid for several years to the parish. Held, that what Gray did amounted to a surrender of his lease.

PARISH. (*Lands—Ejectment—Defence by Parish—Costs.*)

Field v. *Merrison*, 27 *J. P.* 119; 7 *L. T. N. S.* 754.

Where an action of ejectment was brought to recover property to which the parish claimed right, and by a resolution in vestry, the parish directed

an attorney to defend the action, when after some years judgment was given for the plaintiff, with costs, which the parties in possession did not pay. Held, that the overseers who were in office when the action was commenced, but who were not in office when judgment was signed, were not liable to pay the costs of such action.

PARISH. (*Books—Churchwarden's Lien.*)

Moss v. *Thorniley*, 20 *J. P.* 660.

The parish of St. James, Didsbury, was an ancient chapelry in Manchester. Under Acts of parliament the district was constituted a parish. It had always both as a chapelry and parish had two churchwardens. Certain books called the Offertory Book, Amounts of certain Charities, Sunday School Books, Pew Rent Books, Church Rate Books, and Vestry Meeting Books, had been purchased out of the church rates, and were in possession of a churchwarden when he went out of office in 1854. A balance of monies was then due to him of 28*l.*, and he sought to hold a lien on such books till he was paid. Held, that he had neither a general nor a special lien, and that the churchwardens in office could sue him in detinue for the books.

PARISH. (*Survey—Expense—Charge on Poor Rate—Creditor.*)

R. v. *Hurstbourne Tarrant*, 22 *J. P.* 817; *E. B. & E.* 246; 27 *Law J. M. C.* 214; 4 *Jur. N. S.* 783; 31 *L. T.* 115.

In 1840 a new valuation and survey of the parish had been made under 6 & 7 Will. 4, c. 96, s. 3, and Heath advanced money for the purpose, the sum being charged on the poor rates, one-fifth payable in June, 1840, and the other one-fifths in each successive year. The whole ought to have been paid off in 1845, but was not so; Heath had frequently applied for payment since then, but relying on the good faith of the parish officers, forbore pressing for payment. Held, though the stat. 6 & 7 Will. 4, c. 96, provided for the whole being paid off in five years, failing which the creditor might have applied for payment, still the parish officers had power after that time to change the rates, and as there had been no gross negligence here, they ought to do so now, and *mandamus* issued accordingly.

PARISH. (*Survey—Expense—Parish Clerk.*)

Lee v. *Everest*, 22 *J. P.* 55; 2 *H. & N.* 285.

Mr. Everest, an attorney and parish clerk of Epsom, employed the plaintiff, a surveyor, to make a survey and valuation to support a certain assessment to the poor rate, with a view to being a witness on the hearing of an appeal against a poor rate; the plaintiff made the surveys and attended as a witness. Held, the parish officers, and not the parish clerk, were liable for his expenses.

PARISH. (*Grant of Land to Poor—Pesthouse—Charitable Trust.*)

Attorney General v. *Earl of Craven*, 20 *J. P.* 261.

A piece of land was in 1687 granted on trust after the death of the grantor out of the rents and profits to keep the buildings erected thereon in good repair, for the relief, support, use, and convenience of such of the poor

inhabitants of certain parishes as should be visited with the plague, as a pesthouse and burial place for those dying of the sickness, and for no other use or purpose whatsoever; and during such time as the said parishes or any of them should be visited with the plague, to permit the churchwardens and overseers for the time being to apply and convert the premises and buildings erected thereon to the use of such poor inbitants, and as a burying place for such as should die of such sickness, subject to the direction of the trustees. Held, that the land was entirely devoted to charitable purposes; that the parishes were entitled to have it preserved in such a state as that it should always be fit for the reception of poor persons infected with the plague; but that it was not confined to the use of the poor only during the plague, and so the heirs of the grantor could not claim the use of the land till the plague broke out.

PAWNBROKERS ACT. (*Informer—Penalty.*)

Caswell v. *Morgan*, 23 *J. P.* 678.

Caswell was convicted of an offence under the Pawnbrokers Act, 39 & 40 Geo. 3, c. 99, for not stating truly upon the ticket the sum advanced on the goods. Morgan the informer was not the party who had pledged the goods, nor the churchwarden nor overseer of the parish where the offence was committed. Held, nevertheless, that he, as a common informer, was entitled to prosecute, and was entitled to one-half of the penalty imposed.

POOR RATE. (*Publication on Church Door—7 Will. 4 & 1 Vict. c. 45.*)

Empson v. *Metropolitan Board of Works*, 25 *J. P.* 677.

A rate need not, under 7 Will. 4 & 1 Vict. c. 45, be published on the doors of dissenting chapels, but only on those of the Established Church; and where there are two outer gates in the churchyard, and near one of which a notice board is put, the publication is good if the notice is put on one of such outer gates; at least the justices would be justified in finding such publication sufficient.

POOR RATE. (*Heading of Rate—Description of Lands.*)

Ex parte Moulton Overseers, 20 *J. P.* 566.

A poor rate was made for the parish of Moulton, which was duly signed, allowed, and published. But it was headed "Parish of Moulton. Rate made February 15th, 1855." Also an entry was as follows, "Eastern Counties Railway Company's Land, &c. Name or situation of property ( ); estimated extent ( )." On objections taken to the rate,—Held, that the rate was bad for not being properly headed, for it is a well-founded principle of law that when parties in office act with a limited authority, they are bound to show that they are acting within that authority, and here neither the authority nor the purpose was shown. As to the other objection, the blanks in the situation and extent of the property were not fatal, and therefore the rate would not be bad for those defects alone.

POOR RATE. (*Recovery of Arrears—Enforcing Payment—Succeeding Overseers—43 Eliz. c. 2; 17 Geo. 2, c. 28, s. 11.*)

East Dean v. *Everitt*, 25 *J. P.* 565; 30 *Law J. M. C.* 117; 3 *L. T. N. S.* 700; 7 *Jur. N. S.* 124.

Arrears of poor rate may be levied by other than the immediate successors of the overseers who made the rate, for the statute 17 Geo. 2, c. 38, s. 11, does not restrain the generality of 43 Eliz. c. 2, s. 4.

POOR RATE. (*Appeal—Special Sessions—Case stated under* 20 *&* 21 *Vict. c.* 45.)

Wheeler v. *Overseers of Burmington*, 24 *J. P.* 660; 29 *Law J. M. C.* 175; 2 *L. T. N. S.* 171; 6 *Jur. N. S.* 698.

Where a party has appealed to special sessions as to the amount of his assessment to the poor rate, the justices have no jurisdiction to state a case under 20 & 21 Vict. c. 43, for there is no information or complaint pending.

POOR RATE. (*Publication—Signature—Divine Service.*)

Burnley v. *Methley*, 23 *J. P.* 661; 1 *E. & E.* 789; 5 *Jur. N. S.* 914; 28 *Law J. M. C.* 152.

A poor rate, duly made and allowed, was published on the next Sunday by affixing a notice of it, signed by the assistant overseer and acting overseer only, on the doors of the church, before the commencement of the evening service, but after the other services of the day. Held, that no signature to the notice was necessary, publication by the authority of the churchwardens and overseers being enough; that it was a sufficient compliance with the statute 7 Will. 4 & 1 Vict. c. 45, s. 2, to affix the notice before the commencement of any one of the services of the day, and therefore that the rate had been well published.

POOR RATE. (*Retrospective Rate—City of London Union.*)

Waddington v. *City of London Union*, 22 *J. P.* 75; *E. B. & E.* 370; 28 *Law J. M. C.* 113; 32 *L. T.* 225.

A poor rate, made partly for past expenses, is bad altogether. The collector of some of the City of London Union parishes embezzled 22,000*l.* collected by him in December, 1856. The accounts had been audited up to September, 1856, upon false and fraudulent entries. In February, 1857, the guardians of the union made a contribution order on all the parishes for sums including those lost by the defalcations. The parish of Saint Stephen, which was not one of the same parishes, resisted. Held, that the rate was unlawful and invalid on the ground that it was partly for retrospective charges, and the guardians had no power to make such a rate. The poor law commissioners also have no power to authorize such a rate to be made, and their consolidated orders of 1847 did not contemplate any such rate.

POOR RATE. (*Enforcing Rate—Void Rate—Next effective Rate—Deductions.*)

R. v. *JJ. of Kingston-on-Thames*, 23 *J. P.* 4; *E. B. & E.* 256; 27 *Law J. M. C.* 199.

Arnsworth was assessed to a rate made in February for the parish of Kingston-on-Thames in respect of his house. He paid the rate, and it was quashed afterwards in May. A fresh rate was made in June, to which no one was assessed in respect of A.'s house, as he had left the house, and it was empty; but the parish officers being in want of money,

it was agreed among the parishioners that no deduction should be made from it in respect of the partly-collected bad rate in February. Before October Wedd got possession of the house, formerly A.'s. In October a rate was made of double the usual amount to cover the deductions made in respect of the February payment. Wedd was assessed to this rate in respect of the premises occupied by A. and claimed the deduction which A. would have been entitled to. Held, by two judges that Wedd was not entitled, and by other two judges that he was entitled to the deduction, and the rule dropped, there being no decision.

POOR RATE. (*Quashing Rate—Order of Quarter Sessions ordering new Rate.*)

R. v. *Justices of Hampshire*, 9 *L. T. N. S.* 730.

When on appeal the court of quarter sessions quashes a poor rate, the order is not bad because it does not direct a new rate to be made.

POOR RATE. (*Enforcing Demand—Fraction of a Farthing.*)

Morton v. *Bremner*, 25 *J. P.* 216; 29 *Law J. M. C.* 218; 2 *L. T. N. S.* 600.

If a person is rated at a sum including a fraction of a farthing, the overseers cannot demand the whole of such farthing, otherwise the demand is excessive.

POOR RATE. (*Excessive Rate—Fraction of a Farthing.*)

Bavin v. *Hutchinson*, 25 *J. P.* 216; 31 *Law J. M. C.* 229; 6 *L. T. N. S.* 504.

If a person is assessed in a sum including a whole farthing, when a fraction of the farthing only was the correct sum, the proper remedy of the ratepayer is to appeal against the rate as excessive, and the justices are not entitled to refuse to issue their distress warrant.

POOR RATE. (*Bad Rate—Recovery back of Rate.*)

Mersey Dock Trustees v. *Cameron*, 25 *J. P.* 391; 4 *L. T. N. S.* 53.

Poor rates had been levied on the plaintiff's goods, when it was decided by a court of law that the plaintiff was exempt from the rate. Held, the proper remedy of the plaintiff was to appeal to the quarter sessions against the rate, and not by action of replevin against the overseers.

POOR RATES. (*Rates due by Bankrupt—Distress—Action against Overseers.*)

Phillips v. *Naylor*, 23 *J. P.* 660; 28 *Law J. M. C.* 225.

The plaintiff brought an action against the overseers and assistant overseer of Saint Andrew the Less, Cambridge, for maliciously issuing a warrant of commitment for non-payment of poor rates. The plaintiff had become bankrupt while two rates were in arrear, and after his bankruptcy a third rate became due. The overseers, after the granting

of a protection order under 12 & 13 Vict. c. 106, s. 112, and while it was still in force, applied to the magistrates for a summons against the plaintiff for non-payment of the rates; he failed to appear, and the magistrates granted a distress warrant, to which *nulla bona* was returned, whereon they issued a warrant of committal, which was delivered to one of the parish officers, and under which the plaintiff was imprisoned, till discharged by an order of the commissioner in bankruptcy. Held, that there was no evidence of a want of reasonable and probable cause, or of malice, so as to support the action against the overseers.

POOR RATE. (*Rates due out of Bankrupt's Estate—Parochial Rates.*)

Re Saberton, 9 *L. T. N. S.* 267.

Parochial rates, which are payable in full for one year out of the bankrupt's estate, under 24 & 25 Vict. c. 134, s. 156, include special district and highway rates.

POOR RATE. (*Appeal—Arbitration—Principle of Arbitrating.*)

London Dock Company v. *Trustees of Shadwell*, 27 *J. P.* 324; 32 *Law J. M. C.* 30.

A dock company and a parish agreed to refer an appeal against a poor rate made by the parish officers to arbitration, with power to the arbitrator to state a case for a court of law. The arbitrator gave his award, and stated afterwards in writing the principle on which he proceeded. Held, the dock company could not apply to send back the award to the arbitrator, because there was power reserved by the agreement to require a case to be stated, which power they neglected to ask the arbitrator to exercise, and they could not be heard, after taking the chance of the award, to complain.

POOR RATE. (*Tolls for Anchorage and Beaconage.*)

Earl of Durham v. *Bishopwearmouth*, 23 *J. P.* 613; 28 *Law J. M. C.* 232; 1 *L. T. N. S.* 30; 5 *Jur. N. S.* 1306.

Until 6 & 7 Will. 4, c. 19, the bishops of Durham, as counts palatine of the county palatine of Durham, had royal rights within the county, and from time immemorial, tolls, called anchorage and beaconage, were levied by them upon ships entering and using the port of Sunderland, the bishops being the proprietors of the port and owners of the soil below low-water mark. In 1853 the then bishop demised these tolls to the appellant. Held, that the tolls were rateable to the poor in every parish of the port into which ships paying toll came, as it was to be inferred from the facts of the case that they were not tolls in gross, but connected with the occupation of the soil; and, secondly, that the rateable sum ought to be apportioned between such parishes upon a calculation of the number of ships coming into them within the port respectively.

POOR RATE. (*Tolls—Quayage—Use of Soil.*)

Lewis v. *Swansea*, 20 *J. P.* 228.

Tolls and dues were payable to the corporation of Swansea in respect of the landing and shipping of goods on all the quays on the western

shore of the harbour of Swansea, and within the limits of the borough of Swansea. Of these quays two were the soil and freehold of the Duke of Beaufort, as lord of the manor and borough of Swansea, and the remainder were the soil and freehold of the corporation. Some of the corporation quays were leased to individuals, who were assessed to the poor rate in respect of their occupations, an easement for the collection of the tolls, and the rendering the service in respect of which they became due, being reserved to the corporation. The tolls were sometimes called quayage, and sometimes "town dues," and were immemorial payments made by persons not being freemen of the borough, or of certain other ancient boroughs, per number, weight, or measure, paid on goods landed on to or shipped from any part of the western shore of the harbour within the limits of the borough, without any distinction between the soil and freehold of the corporation and the soil and freehold of the lord of the borough, or between such parts as were from time to time occupied by the corporation, and such parts as were from time to time demised or leased by them to other parties. Held, that the payments were incorporeal and not connected with the occupation of the land, and therefore that the corporation of Swansea was not rateable in respect of them. Per Lord Campbell, C. J.:—"If the payment were for the use of the quay, then while the corporation or the lessees were in possession of the wharf, I should say they were rateable; but if it is not a payment in respect of the use of the soil, the person entitled to it is not rateable in respect of it."

POOR RATE. (*Floating Pier—Exclusive Occupation.*)

Greenwich v. *Forrest*, 22 *J. P.* 130; 27 *Law J. M. C.* 96; 8 *E. & B.* 890; 4 *Jur. N. S.* 480.

Forrest and others were rated for the occupation of land occupied by a platform used as a pier. The pier rested at low water on blocks fixed for the purpose in the bed of the river Thames; at other times it floated, and at all times it was kept in its proper place by iron chain cables fastened to anchors placed in the bed of the river, and by an iron chain attached to an iron post affixed to stone stairs on the bank of the river, constituting a landing place. It has been in this situation for fourteen years. Held, that these facts showed a permanent and profitable occupation of land within the parish of Greenwich, and therefore rateable.

POOR RATE. (*Occupation—Empty House—Possession by Executors.*)

R. v. *Justices of Warwickshire*, 24 *J. P.* 728; 29 *Law J. M. C.* 176; 2 *L. T. N. S.* 233.

Where the premises are actually occupied, and the contention is, that the occupation is not beneficial, as, for example, where the house is occupied by the executors of the deceased tenant merely with a view to sale, that is a matter of appeal to the quarter sessions, and the justices are bound to disregard such objection, and issue their distress warrant.

POOR RATE. (*Occupation—Licence to dig Clay—Lease.*)

R. v. *Fayle*, 20 *J. P.* 263.

In 1848, Culcraft, by indenture, demised to Fayle the liberty and privilege of entering upon all his waste, or open and uninclosed lands in the county of Dorset, where he should find clay of marketable quality, and then and there "to search for, dig, raise, and carry away all sorts of

clay and sand that should be found or gotten in, upon, or under the said waste lands," for a term of years, at a rent of 450*l.* per annum. In 1855, Fayle had only lately begun to exercise the privilege demised in Swanage, one of the parishes included in the demise, and had laid down tramways, &c., and was rated to the poor of Swanage in respect of such clay pit. Formerly, under a similar lease, old pits had been worked in the parish of Corfe Castle, included in this lease, but these pits were exhausted, or at least ceased to be worked. The overseers of Corfe Castle, however, rated Fayle in respect of his clay pits and cellars in that parish. Held, the deed did not give occupation of the soil to Fayle, but merely a licence to dig clay, and that he was not rateable in the parish of Corfe Castle merely because he had opened a pit in the parish of Swanage. Per Lord Campbell, "It is quite clear, that if a man who is in possession of land, which in the ordinary use of it might be productive, chooses only to grow thistles on it for the use of the donkeys in the parish, he is, nevertheless, rateable in respect of the profit which it might reasonably be supposed could be made of it; but with respect to minerals which are below the surface, the law is equally clear, that where they are not worked, and so made productive, they do not become a rateable subject matter."

POOR RATE. (*Occupation of Land—Game—Value.*)

R. v. *Thurlstone*, 23 *J. P.* 565; 28 *Law J. M. C.* 106; 5 *Jur. N. S.* 820; 32 *L. T.* 275.

Land was demised to A. from year to year, the landlord reserving the right to the game, and the landlord let such right to another lessee. The agricultural tenant was assessed to the poor in respect of his occupation, valued as inclusive of the right of killing the game. Held, the tenant was not rateable for the shooting, but merely for the value of the land, without the game.

POOR RATE. (*Confusion of Parish Boundaries—Objection to Rate.*)

R. v. *Woods*, 23 *J. P.* 36; 27 *Law J. M. C.* 289; *E. B. & E.* 481; 31 *L. T.* 179; 4 *Jur. N. S.* 1233.

The parishes of Hethe and Cottesford, in the county of Oxford, adjoin each other, and within them is a farm, of which 195 acres are in Hethe and 399 in Cottesford, but which are the acres in each parish is unknown. The tenant of the farm having objected that he had no rateable property in Hethe; that he had not 195 acres of rateable property in Hethe; and that the description was insufficient:—Held, the objections were bad, for the parish officers were not bound to set out the particular boundaries.

POOR RATE. (*County Police Station—Occupation as Part Wages.*)

Stretford v. *JJ. of Lancashire*, 22 *J. P.* 705; *E. B. & E.* 225; 4 *Jur. N. S.* 1274; 31 *L. T.* 116.

A building was used as a district police station for county constabulary, consisting of sergeant's office, and living room, two cells, scullery, pantry, and four sleeping rooms. A sergeant of constabulary and his wife, and two constables, lived on the premises. The sergeant had no children, and occupied two rooms. The two constables took their meals in the sergeant's room, and had each one sleeping room. The three constables required to reside on the premises for the purpose of the constabulary,

and the accommodation provided for them did not exceed what was necessary for their degree of life. A deduction was made from the wages of each as rent for the occupation. Held, there was no beneficial occupation, and, therefore, no liability to poor rate.

POOR RATE. (*Market Stalls—Sale of Corn by pitching Sacks.*)

R. v. *Inhabitants of Barnard Castle*, 27 *J. P.* 534.

In an ancient market, of which W. Stewart was lessee of tolls, the frequenters of the market brought corn and potatoes in carts, which stood within the limits of the market, and one sack was taken out and pitched in the street for buyers to examine. A toll was payable to Stewart, in kind, for the whole quantity brought in bulk, including the sample sack. Held, that Stewart was rateable to the poor rate in respect of those tolls.

POOR RATE. (*Market Tolls—Corporation Property.*)

Worcester v. *St. Clements*, 22 *J. P.* 319.

The mayor and corporation of Worcester were rated to the poor rate in respect of tolls, sheds, land, and buildings, used as a cattle market in the parish of St. Clements, in the sum of 197*l.* 10*s.* The tolls were taken under a local Act, and the buildings, &c. had always been used as a cattle market, and for no other purpose. The tolls were directed by the Act to be applied to defray expenses incident to making the market commodious, and all taxes, &c. Held, the corporation was rightly rated, for the case came within the principle of the *Birkenhead Dock Trustees* v. *Birkenhead Overseers*, 2 E. & B. 148. The corporation was in possession of the land, with the right of taking tolls, and so was *primâ facie* liable, and there was nothing in the Act which prohibited the tolls being applied to defray the poor rate.

POOR RATE. (*Tithe Rentcharge—District Church—Annuity to Incumbent.*)

Frend v. *Tolleshunt Knights*, 23 *J. P.* 677; 1 *E. & E.* 753; 28 *Law J. M. C.* 169.

The rector of Tolleshunt Knights granted to the incumbent for the time being of a new district formed under the New Parishes Act, 1856, within the parish of Tolleshunt Knights, a rentcharge or annuity of 150*l.*, payable free, &c., to be for ever issuing out of and charged upon or being part of the rectory or parsonage of Tolleshunt Knights, and the glebe lands, tithes, or tithe commutation rentcharge, hereditaments, and all other emoluments of the rectory or parsonage, with power of entry and distress as in the case of rents reserved upon leases in the event of non-payment, and also a power to enter and take the profits till satisfaction. Afterwards the yearly sum having been from time to time paid, and none of the powers having been exercised, the minister was assessed to the poor rate of the parish of Tolleshunt Knights in respect of the rentcharge so granted. Held, he was not liable to be assessed, for he was neither vicar, parson, nor inhabitant of the parish; that it was rather a grant of annuity than an assignment, and that he would only have been rateable if he had entered and distrained upon the rectory, or parsonage and glebe lands, and had possessed himself of the tithes.

POOR RATE. (*Tithe Rentcharge—Beneficial Occupation—Deductions.*)

Groves v. *Hernhill Overseers*, 24 *J. P.* 341; 29 *Law J. M. C.* 179; 6 *Jur. N. S.* 1014.

Groves had a lease of the tithe rentcharge of the parish of Hernhill from the Archbishop of Canterbury, as owner, subject to a payment of 40*l.* a-year, duly charged on such rentcharge by the archbishop in favour of the perpetual curate of Thorrington. Groves paid the 40*l.* as required by his lease. Held, he was not entitled to a deduction of the 40*l.* in the assessment of his tithe rentcharge to the poor rate, for he was occupier of the whole, not as clergyman.

POOR RATE. (*Tithe Rentcharge—Queen Anne's Bounty.*)

R. v. *Lamberhurst*, *R.* v. *Hawkins*, 22 *J. P.* 148; 31 *L. T.* 9; 27 *Law J. M. C.* 248; 4 *Jur. N. S.* 1050.

The vicar of a parish claimed to deduct from the gross value of his tithe commutation rentcharge, in order to ascertain its rateable value under the Parochial Assessment Act, a sum made up of interest and part principal annually payable by him as vicar to the Governors of Queen Anne's Bounty, in liquidation of money borrowed by him from them under 17 Geo. 3, c. 53, and 1 & 2 Vict. c. 23, to rebuild the parsonage house, and secured by a mortgage of all the tithes and profits of the living. Held, that the deduction was not authorized by the Parochial Assessment Act.

POOR RATE. (*Tithe Rentcharge—Inclosure Award.*)

R. v. *Hemsworth*, *R.* v. *Wrightson*, 24 *J. P.* 788; 3 *L. T. N. S.* 322.

An Inclosure Act granted an annual rent of 4*s.* per acre to the rector of the parish in lieu of tithes, and enacted that all allotments, and the annual rent to the rector, should at all times be rated proportionably with other lands in the parish, and to prevent the settling of such proportions from creating disputes between the rector and parishioners, the rector's rate for ever thereafter should be in such proportion to the rates of the parish as the commission should fix as the proportion the rector should pay, considering the nature of a money payment. The commissioner awarded that the rector's proportion should be "one-fourteenth part of the amount of the rate so made by me as aforesaid," which he declared to be 295*l.*, upon 4,140*l.* 8*s.*, the rateable value of the lands in the parish. Held, the award was bad, and not warranted by the statute, for it had failed to value the future rates when the other parts of the parish should increase in value. The rate in question was therefore bad, and the effect was to throw the rector on his legal rights, as if the Act had never been passed.

POOR RATE. (*Tithes—Corn Rentcharge payable to Vicar—Annual Value.*)

Hackett v. *Long Bennington*, 9 *L. T. N. S.* 769.

By an Act of 1794 commissioners for inclosing lands in the parish of Long Bennington were directed to set out, from the lands to be inclosed, a certain portion to be taken and accepted as full compensation for, and

in lieu of all tithes both great and small. Of this portion they were directed to allot thirty acres to the vicar and his successors, and all the residue to the rector and his heirs, subject to a corn rentcharge payable out of the same to the vicar and his successors, the amount of which was to be estimated in the following manner. The commissioners were required to ascertain what part of the lands so to be set out for tithes should, with the above-mentioned thirty acres, be a fair and equitable compensation for the vicarial tithes, and to ascertain what quantity of wheat, at an average price based upon the prices during the last twenty-one years, was equal to the yearly value of that part of the land exclusive of the thirty acres. A corn rent equal to the value of the quantity of wheat so to be ascertained was to be paid annually to the vicar and his successors, clear of all parochial rates and taxes. It was further enacted that the tithes should be for ever extinguished. After the passing of the Union Assessment Act, 1862, Messrs. Andrews, who were occupiers of the lands so allotted to the rector, were assessed at the full annual value of the lands, less the amount of corn rent charged on the land and payable to the vicar. On an appeal against the rate on the ground that Messrs. Andrews were underrated,—Held, that according to the terms of the Act, the vicar was not liable to be rated on the amount of his rentcharge, and that Messrs. Andrews were rateable at the full annual value of their lands without deduction of the rentcharge charged thereon.

POOR RATE. (*Tithe Commutation Rentcharge—Curate's Salary.*)

Scriven Overseers v. *Fawcett*, 27 *J. P.* 344; 32 *Law J. M. C.* 161; 8 *L. T. N. S.* 352; 9 *Jur. N. S.* 1125.

The vicar of the parish of Knaresborough, which consisted of several townships, held a commutation rentcharge, amounting to 86*l.*, of which 60*l.* was derived from one of the townships, viz., Scriven-cum-Tentergate. The parish had a population of 6,500, and the vicar paid a curate a salary of 100*l.* a-year. The overseers of Scriven apportioned the curate's salary on the whole income of the vicarage, and then deducted a relative proportion from the amount of rentcharge arising in Scriven, rating the vicar for the residue of his rentcharge in Scriven. Held, this was a correct rate, and that the vicar was not exempt from rateability in Scriven because the curate's salary exceeded the whole rentcharge there arising.

POOR RATE. (*Tithe Rentcharge—Payment to District Church Incumbent.*)

Lawrence v. *Tolleshunt Knights*, 26 *J. P.* 422; 31 *Law J. M. C.* 148; 8 *Jur. N. S.* 866; 2 *B. & S.* 533.

Where the rector of a parish, part of which was taken with parts of other parishes to form a new district parish, charged the tithe rentcharge, of which he was the owner, under the New Parishes Acts, with a perpetual yearly sum of 150*l.*, as a contribution towards the endowment of such district church, Held, the rector was not entitled to claim a deduction of this sum from the assessable value of such tithe rentcharge in his occupation, for his parting with the portion of his rentcharge was a voluntary act, and the sum would otherwise be withdrawn from its natural contribution to the poor rate.

See *Frend* v. *Tolleshunt Knights*, ante, p. 40.

POOR RATE. (*Tithe Rentcharge—Two Parishes united—Curate's Salary.*)

Williams v. *Llangeinwen*, 26 *J. P.* 164; 1 *B. & S.* 699; 31 *Law J. M. C.* 54; 5 *L. T. N. S.* 309.

Two parishes, though distinct, were so far inseparably connected that one incumbent had always filled both benefices. Mr. Williams, the owner of the tithe commutation rentcharge of the parish, being appointed rector, and owing to the services going on in the churches of both parishes at the same time, such churches also being distant from each other two miles, he appointed a curate to serve in one of the churches. Held, he was entitled to deduct the curate's salary in assessing the amount of the tithe commutation rentcharge at which he was rated to the poor.

POOR RATE. (*Tithe Rentcharge—Curate's Salary—Two Cures.*)

Wheeler v. *Burmington*, 26 *J. P.* 38; 31 *Law J. M. C.* 57; 1 *B. & S.* 709; 5 *L. T. N. S.* 345; 8 *Jur. N. S.* 304.

Mr. Wheeler, the vicar of Wolford, obtained a lease of the impropriated tithe rentcharge of Burmington, in the same county, on condition of doing the spiritual duty of Burmington. The two parishes, though anciently connected, were distinct parishes. The vicar having employed a curate for Burmington, as was necessary, sought to deduct the salary of the curate in his assessment to the poor rate in Burmington. Held, he was not entitled to such deduction, for he was, in fact, in the situation of a pluralist. And it seems, a lay rector of impropriated tithe rentcharge, who is bound to supply the spiritual service of the cure, is not entitled to deduct from his assessment to the poor rate the salary paid to a spiritual person to perform such duty.

POOR RATE. (*Tithe Rentcharge—Curate's Salary—Deductions.*)

R. v. *Goodchild*, 22 *J. P.* 144; *E. B. & E.* 1; 27 *Law J. M. C.* 238; 31 *L. T.* 9.

The parish of Hackney, within the Metropolitan Local Management Act, was divided for certain purposes, of which rating for the relief of the poor was not one, into three districts. After such division, the tithes, and subsequently the tithe rentcharges, were divided amongst the incumbents of the three new parishes in certain fixed proportions, and were subject to the same rates as if they had not been divided. A poor rate was made for the old parish, in which the rectors of the new parishes were assessed in respect of their tithe rentcharge, and they claimed, in order to arrive at the rateable value of the tithe rentcharge, to deduct from the gross sum allowances in respect of the following items:—1. Rates (other than general rate, lighting rate, and sewers' rate). 2. Estimated law expenses in enforcing payment. 3. Estimated expenses of collection, other than as above. 4. Land tax. 5. Property tax. 6. Estimated losses by non-payment. 7. General rate. 8. Lighting rate. 9. Sewers' rate. 10. Estimated profit of rentcharge farmed by yearly tenant. 11. Tenths. 12. Ecclesiastical dues. 13. Curate's salary. 14. Amount paid towards the salary of the minister of the district church. 15. Estimated amount of the curate's personal services. Held, the appellants were entitled to deductions in respect of the items claimed, except sewers' rate, the estimated profit of rentcharge farmed by a yearly tenant, land tax, and the personal services of the rectors, for which no deduction

was in any case to be made; that they were not entitled to deduction in respect of the salary of the minister of the district church if the payment was voluntary, and might be withheld at pleasure, but were entitled to it if the payment was compulsory, and virtually separated from the appellants' emoluments, and that they were entitled to a reasonable deduction in respect of the curate's salary if the population was sufficiently large to make the services of a curate necessary.

POOR RATE. (*Canal—Occupier—Local Act—Mode of Rating.*)

Regent's Canal Company v. *Hendon*, 20 *J. P.* 710.

A reservoir in the parish of Hendon had been enlarged thrice. On the occasion of making the first two enlargements the Grand Junction Canal Company had power to buy the land, and did buy it for the Regent's Canal Company. The Regent's Canal Company then obtained an Act of parliament to purchase a part of the land to enlarge the reservoir. By an agreement between the two companies, the Regent's Canal Company had certain powers of controlling the supply of water from the reservoir, and, under the statutes, they were the substantial occupiers, and as such, rateable. A local Act in 1862 enacted, that the lands, whether covered with water or not, shall be rateable where situated in a certain manner. Held, this included all lands, not only then belonging to, but which should be acquired by, the Regent's Canal Company.

POOR RATE. (*Exemption—Local Act—Exemption repealed.*)

Montgomery Overseers v. *Forden*, 20 *J. P.* 596.

An Act of parliament in 1792, incorporating the guardians of the poor of several parishes in Wales, authorized them to take and hold lands in the parish of Forden for a house of industry, free of all parliamentary and parochial taxes, on payment only of a rent. In 1825 another Act passed, which repealed the former Act, and merely enacted that the new corporation should hold all the lands of the old corporation, subject to the rents reserved, without re-enacting the exemption from rates. Held, the effect of the repeal of the former Act, without repeating the enactment exempting the lands from poor rates, was to make the premises rateable.

POOR RATE. (*Canal—Adjoining Land built upon.*)

R. v. *Grand Junction Canal Company*, 23 *J. P.* 404.

The Grand Junction Canal Company Act of 1794 enacted that the company should be rated for their canal, &c., in the same proportion as other lands lying near. The land lying near was at first agricultural, but afterwards was built upon, when the vestry of Paddington sought to increase the rate. Held, the land was to be rated upon the principle of what would be given for it as land in its natural state, let from year to year, with a covenant not to build upon it, and that it was not to be rated at the sum at which the adjoining building land was let. See also *R.* v. *Grand Junction Canal Company*, 1 B. & Ald. 293.

POOR RATE. (*Canal—Local Act—Land near Canal.*)

R. v. *Glamorganshire Railway Company*, 25 *J. P.* 6.

A local Canal Act enacted that "the company's canal shall be rated in the same proportion as other lands lying near the same, and as if

these were the property of individuals." At the time of the Act lands lying near were mostly agricultural and of less value, but now they were covered with buildings and wharves, and more valuable than the land used for the canal. Held, the land covered by the canal was to be rated not according to the rateable value of the nearest land, which was agricultural, but according to the value of the land as applicable to building purposes, and as contradistinguished from the joint value of land and buildings. Applying the principle of the Parochial Assessment Act to this state of things, it was to be considered what the adjoining land was worth to a tenant from year to year as land built upon, and such land covered with buildings and valued as above was to be brought into hotchpot with the other lands in the parish, and the land covered by the canal was then to be rated according to the aggregate value of the whole. This construction, owing to the altered state of things, was a hardship to the company, which could however only be rectified by parliament.

POOR RATE. (*Canal—Gross Earnings—Repairs—Deductions.*)

R. v. *Coventry Canal*, 23 *J. P.* 582; 28 *Law J. M. C.* 102; 32 *L. T.* 293; 5 *Jur. N. S.* 862.

The Coventry Canal Company derive their profits solely from the tolls, rates, and duties payable to them after certain rates of tonnage for goods, wares, and merchandise passing along the line of their canal, which goes through several parishes, and has thirteen locks situate in various parts, and in those parts essential to the working of the canal. The repairs of these locks are annually extensive. Held, that in assessing the company in respect of their canal to the poor rate of a parish in which two of the said locks were situate, the expense of maintaining those two locks was not to be deducted from the gross earnings in the parish, as such expense did not come within the category of local expenses, and ought to be thrown upon the whole line of the canal.

POOR RATE. (*Gas Company—Rateable Value—Actual Receipts.*)

R. v. *Cambridge Gas Company*, 23 *J. P.* 436; 33 *L. T.* 314.

Held, in forming the estimate of the rateable value of the hereditaments of a gas company, the actual receipts and expenditure are proper items to be taken into account.

POOR RATE. (*Gas Company—Annual Value of Works.*)

Sheffield Gas Company v. *Overseers of Sheffield*, 27 *J. P.* 439; 32 *Law J. M. C.* 169; 9 *Jur. N. S.* 623; 8 *L. T. N. S.* 692.

In rating a gas company whose mains and pipes lay in different townships, it was held that—1. In arriving at the rateable value of stations, works, buildings, &c., they are to be valued as fixed property deriving some additional value from their capacity of being used as part of the gasworks. 2. In apportioning the entire subject matter among the different townships, the mode of dividing according to the extent of the portion of each township is not correct; but the principle laid down in *R.* v. *West Middlesex Waterworks Company*, 1 E. & E. 716, *post*, p. 49, is to be applied.

POOR RATE. (*Docks—Beneficial Occupation—Public Purposes.*)

The Tyne Improvement Commissioners v. *Chirton*, 23 *J. P.* 583; 28 *Law J. M. C.* 131; 5 *Jur. N. S.* 869.

The Tyne Improvement Commissioners made the Northumberland docks, and received certain rates and dues for the use of the same by the shipping, amounting to 10,000*l.* per annum. The statute authorized the levying of rates and borrowing money on the security of them, and the monies received for rates and dues were to be applied—1, to pay expenses of making and maintaining the docks; 2, to pay the annual interest of the money borrowed; 3, to appropriate a sum equal to two-and-a-half per cent. on so much of the sum borrowed as should remain due, as a sinking fund to be applied in paying off the principal, and after five years from the opening of the docks, if there be a surplus, to lower the rates to that extent. The Act also directed that after the payments and extinction of debt, and subject to the costs and expenses, 1,000*l.* should be set aside annually till 10,000*l.* accumulate to form a fund for extraordinary repairs, and if there be a surplus, to reduce the rates so as to pay expenses. Held, that as the purposes of the docks were not public purposes, so as to exempt from poor rates, and as the Act of parliament did not in terms appropriate the funds so as to exclude payment of rates, the commissioners were rateable in respect of their occupation.

POOR RATE. (*Docks—Deductions—Annual Value.*)

R. v. *Tyne Improvement Commissioners*, 6 *L. T. N. S.* 489.

The Northumberland Dock was constructed by the Tyne Improvement Commissioners, under their Act of parliament, which gave them no power to remunerate themselves out of the dock funds for their services; and in the deductions to be made in the assessment of the dock to the poor rate, they claimed, under the head of disbursements, a sum of 500*l.* as "allowance for direction," and another sum of 150*l.* for watching, which was done by a police boat provided and paid for out of other than dock funds. They also claimed, under the head of "movable plant," a deduction of 1,200*l.* for a steamboat used for towing barges, when filled with mud, out to sea and back, and under the head of "capital for carrying on the dock," 500*l.* for "cash balance," and 500*l.* for "stores on hand," and also a deduction of 4*s.* in the pound for rates and taxes on the gross rateable value of the dock. Held, that the deductions for direction and watching and for cash balance ought not to be allowed. Held, also, that the deduction for the steamboat was not allowable, while it was used only for the work of constructing the dock; but if it became necessary for permanent use in removing silt, it would be a deduction in future rates. Held, that a deduction in respect of stores on hand ought to be allowed. Held, further, that the allowance in respect of rates and taxes should be upon the net rateable value of the property, after the rates and taxes themselves have been deducted.

POOR RATE. (*Exemption—Docks—Public Statutory Purpose.*)

Mersey Docks v. *Jones*, 25 *J. P.* 757; 24 *J. P.* 942; 30 *Law J. M. C.* 239; 9 *C. B. N. S.* 812; 5 *L. T. N. S.* 184.

The court of Queen's Bench decided in 1827 that the Liverpool Docks were exempt from poor rates, and subsequent statutes, assuming that

state of the law, enacted that the warehouses on the extended docks authorized to be made should be rateable as if the occupancy were beneficial. Held, that the statutes did not take away the exemption from the docks, but merely from the new warehouses since built.

This case is under appeal to the House of Lords.

POOR RATE. (*Exemption—Public Property—Inland Revenue Office.*)

Smith v. *St. Michael, Cambridge*, 25 *J. P.* 133; 3 *L. T. N. S.* 687; 7 *Jur. N. S.* 24; 30 *Law J. M. C.* 74.

Smith was tenant of a house in Cambridge, rented at 52*l.* 10*s.*, and let part of it to the inland revenue department for offices at a rental of 90*l.* per annum, himself paying the taxes, gas, &c., and supplying a person to take charge of the office and keep it clean. Smith himself occupied the ground floor as his office, being a distributor of stamps for the district, and for taking in orders for his other private business. Held, that Smith was the occupier of the whole house in his own right as beneficial occupier, the crown or inland revenue being merely lodgers or guests, and therefore he was properly rateable for the whole premises.

POOR RATE. (*Railway—Lease for 999 Years—Occupation.*)

Leeds, Bradford, and Halifax Railway Company v. *Overseers of Armley*, 25 *J. P.* 711.

The Leeds, Bradford, and Halifax Railway Company entered into agreements whereby they gave to other companies the use of their line for a term of 999 years, for which use they received an annual payment. They kept part of the traffic in their own hands, did the repairs to the line, paid the servants, and received a rent for a crossing on the line. Held, the nature of the agreements showed that the Leeds company had not parted with the possession, and therefore were rateable to the poor rate in respect of their occupation of the line.

POOR RATE. (*Railway—Use of Station by Two Companies.*)

R. v. *Churchwardens of Fletton*, 25 *J. P.* 100; 30 *Law J. M. C.* 89; 7 *Jur. N. S.* 518; 3 *L. T. N. S.* 689.

In 1848 the London and North Western Railway Company agreed with the Eastern Counties Railway Company to pay the latter a large rent for the joint use of the Peterborough Station, which was the property of the Eastern Counties Railway Company. Since then, owing to new railways, and traffic being diverted, such rent was three times more than the real annual value to the London and North Western Railway Company. In assessing the Eastern Counties Railway Company to the poor rate in respect of the Peterborough Station,—Held, that the rateable value of the occupation of the station was to be taken to include the whole rent paid by the London and North Western Railway Company, for that was part of the profitable occupation derived by the Eastern Counties Railway Company.

POOR RATE. (*Railway—Sum paid by one Company to another.*)

North London Railway Company v. *Vestry of St. Pancras*, 27 *J. P.* 358; 8 *L. T. N. S.* 273; 32 *Law J. M. C.* 166; 9 *Jur. N. S.* 1102.

The North London Railway Company by arrangement with the Blackwall Railway Company carried passengers over part of the line of the

latter, paying 1*d.* per head to the latter company for all passengers who so travelled. In assessing the North London Company,—Held, that the sum of 1*d.* was not to be taken into account as part of the income of the North London Company, for they merely received and paid it over as the agents of the Blackwall Company, deriving no profit therefrom.

POOR RATE. (*Railway Company—Toll on Goods—Declining to levy Toll—Rateable Value.*)

R. v. *Stockton and Darlington Railway Company*, 27 *J. P.* 518; 8 *L. T. N. S.* 422.

A railway company had power by the Act of parliament to levy 2*d.* per ton on certain goods; but finding that if they did so, they would lose customers, they did not levy it. Held, that they were not rateable for the toll which they did not levy.

POOR RATE. (*Railway—Branch Line producing no Profit.*)

London and North Western Railway Company v. *Cannock*, 9 *L. T. N. S.* 325.

The rateable value of land in a parish may be increased by its producing a return to the occupiers out of the parish; as where a branch railway, occupied by a company owning a main line into which it runs, produces a profit by virtue of the traffic which it causes over such main line. The Cannock Mineral Railway ran into the main line of the London and North Western Railway, and was leased to the London and North Western Railway Company at a fixed rent. The traffic on this branch yielded no profit whatever with reference to the branch itself, but its traffic passed over the main line, and contributed considerably to the traffic and profit of such main line. Held, that the London and North Western Railway Company, as the occupiers of land in the parishes through which the Cannock line ran, were liable to be rated not merely with respect to the earnings of such branch line in such parishes, but in respect of the value to them as bringing a profit to their main line,

POOR RATE. (*Railway Company—Terminal Charges—Stations.*)

Eastern Counties Railway Company v. *Overseers of Great Amwell*, 27 *J. P.* 423; 32 *Law J. M. C.* 174.

A railway company kept servants and appliances at each of its stations, and at the termini of the line, charging customers a certain gross sum per ton; but of this amount a certain sum was calculated under the name of terminal charges, as being the costs of earning these charges for delivering goods, &c., at the station. In assessing the rateable value of the station,—Held, that terminal charges were part of the general earnings of the line and not earnings of the station, for the station only contributed indirectly to the profits of the line.

POOR RATE. (*Railway—Tear and Wear—Rolling Stock—Deductions.*)

R. v. *North Staffordshire Railway Company*, 24 *J. P.* 821; 30 *Law J. M. C.* 68; 3 *L. T. N. S.* 554.

In rating a railway company to the poor rate it was held—1. The percentage amount to be allowed on the capital and tenant's profits is to be

calculated not upon the original cost price of the rolling stock, but on the actual value at the time the rate is made. 2. The company are entitled to a deduction for things movable, such as office and station furniture, but not for things so attached to the freehold as to become part of it, nor for heavy machinery not fixed so as not to be capable of removal, such as cranes, steam engines, &c. 3. In deciding whether the company are entitled to a deduction in respect of floating capital, since whatever tends to diminish the profits must go *pro tanto* to diminish the rent which a tenant would give, any delay in realizing the profits incidental to the ordinary employment of capital, such as giving credit to some customers, must be taken into account. 4. The deduction in respect of station buildings and sidings is to be calculated on the actual value at the time of the rate and not on the original cost.

POOR RATE. (*Waterworks—Pipes—Mileage.*)

R. v. *St. Mary, Putney*, 24 *J. P.* 486; 29 *Law J. M. C.* 236; 6 *Jur. N. S.* 236.

The Chelsea Waterworks Company had reservoirs in the parish of Putney, and pipes conveyed the water to and from the same, but no water was sold in the parish. Held, it was not a proper mode of rating to take the whole apparatus in the several parishes and subdivide the rateable value according to the quantity of land occupied by the apparatus in each parish.

POOR RATE. (*Waterworks—Land contributing Supply of Water.*)

R. v. *Mayor of Liverpool*, 20 *J. P.* 661; 6 *E. & B.* 704; 25 *Law J. M. C.* 112; 2 *Jur. N. S.* 1002.

By local Acts for supplying Liverpool with water, land was purchased in the township of West Derby, which was not in Liverpool, and a well was sunk and pumping apparatus was erected by which water was got and conveyed in pipes to Liverpool, where it was distributed by service pipes. The corporation of Liverpool, as managers, were bound by statute to levy only sufficient rates to pay the expense of managing and keeping up the water supply, but not to make any profit. Held, they were rateable to the poor in respect of the land so occupied in West Derby, for land taken for waterworks, and indirectly conducing to the profitable supply of water, is rateable irrespective of the profit derived from that supply. Held, further, that the corporation was not exempted from rateability merely because it occupied as trustee and took no benefit otherwise than as representing the town.

POOR RATE. (*Water Company—Mains—Highways.*)

R. v. *West Middlesex Waterworks*, 23 *J. P.* 164; 28 *Law J. M. C.* 135; 5 *Jur. N. S.* 1159; 32 *L. T.* 388.

The West Middlesex Water Company were empowered by their Act to take water from the Thames above the town of Hampton, and to construct their engines, &c, for drawing the water, and to lay down a main extending from Hampton to the reservoirs in Barnes. Part of the apparatus was a conduit main, 36 inches diameter, under a highway, in which the company had no interest, from the works to the boundary of the parish, a distance of one mile and a half, conveying the whole water raised to Barnes, where it was filtered. The filtered water was afterwards drawn into the company's mains at Hammersmith and there supplied to customers in the parishes which the company were authorized to supply. Hampton was not one of the places supplied. By a poor rate

made for the parish of Hampton, the company was assessed for property described as plant, engine house, cottage, buildings, wharves, mains, land and premises. Held, that the company was rateable for its mains in Hampton, which were laid under the surface of the highway, though no freehold or leasehold interest in the highway was vested in such company, and the company ought to be rated for the plant, engine house, &c., as mere land and buildings, with fixtures and machinery attached, and deriving from the increase of demand beyond supply some additional value from their capacity of being applied to such purposes as that of a water company, but not in reference to the profits earned in another parish beyond assuming that they are sufficient to pay for all outgoings.

POOR RATE. (*Waterworks—Beneficial Occupation—Profits outside the Parish.*)

R. v. *Holme Reservoirs Directors*, 10 *W. R.* 734.

The appellants, the directors of the Holme reservoirs, under their Act of parliament constructed a reservoir in the respondents' township of Austonley for the supply of water to mills situated in certain streams. They were authorized by the Act to apply to this purpose money subscribed for the relief of sufferers by the bursting of a former reservoir, and also to raise a further sum on the security of rates to be levied on the occupiers of such mills in proportion to the falls of water occupied by them. The rates so to be levied were limited by the Act, and were appropriated—1, to the current and ordinary annual expenses of the works not exceeding a specified sum; 2, to maintaining the reservoirs, &c.; 3 and 4, to paying interest on sums borrowed under that and a former Act; 5, in setting apart of a specified sum for a reserve fund; 6, in paying incidental current expenses not covered by the sum firstly appropriated; 7, in adding the surplus to the reserve fund. The whole amount of rates levied was exhausted under the first four heads of appropriation. The water flowed from the reservoir into the natural course of the streams supplying the mills, nothing further having to be done to it by the appellants after it left the reservoir. Some of the falls in respect of which rates were payable were situated within and others without the respondents' parish. Held, that the appellants had a beneficial occupation of the reservoir, in respect of which they were liable to be rated, and that in estimating the rateable value they were not entitled to deduct the sum paid for interest on the money borrowed; that the property was not exempted from rates by reason of the appropriation clause of the Act; that in estimating the rateable value the sums recovered for rates payable in respect of falls situated without the parish should be taken into account as well as those within the parish.

POOR RATE. (*Public Charity—School Exemptions.*)

Licensed Victuallers Society v. *St. Mary, Lambeth*, 25 *J. P.* 630; 7 *Jur. N. S.* 521; 30 *Law J. M. C.* 131; 1 *B. & S.* 71; 4 *L. T. N. S.* 241.

A society incorporated by charter, maintained a school for certain poor children, and they also carried on the business of publishers of a newspaper, dividing the profits among charitable objects. The governors held their quarterly meetings in the school-room. Held, the governors were not exempt from rateability in respect of their school-house, for this was not a public charity.

POOR RATE. (*Exemption—Literary Institution.*)

The Liverpool Library v. *Mayor of Liverpool*, 24 *J. P.* 549; 2 *L. T. N. S.* 325; 5 *H. & N.* 526.; 29 *Law J. M. C.* 228.

The exemption of literary societies from rates extends to exempt societies from rates imposed by subsequent Acts. The funds of the Liverpool library arose from subscriptions and sale of shares, of old books and catalogues. The shares were transferable; but no bonus or dividend was payable to any member; no newspapers were admitted, and the books circulated solely among members. Held, the library was entitled to the exemption.

POOR RATE. (*Exemption—Literary Institution—Medical Society.*)

R. v. *Royal Medical Society*, 21 *J. P.* 789.

The Royal Medical and Chirurgical Society of London was instituted for the cultivation and promotion of medicine and surgery and the branches of science connected therewith. Held, exempt from poor rate as a scientific society under 6 & 7 Vict. c. 36, s. 1, in respect of premises occupied solely by them.

POOR RATE. (*Exemption—Literary Institution—Educational Union.*)

R. v. *St. Martins-in-the-Fields*, 20 *J. P.* 420.

The Working Men's Educational Union was founded in 1852, for supporting efforts variously put forth for the elevation of the adult operative population as regarded their physical, intellectual, moral and religious condition, by aiding all persons desirous of imparting interesting and popular literary and scientific teaching, imbued with a sound Christian spirit, either by the delivery of lectures, the formation of libraries, or the promotion of mutual instruction or classes for adults. The plan contemplated that the union should promote, encourage, and assist the above objects, rather than undertake them, interfering as little as possible with local agency, but aiding it chiefly by the following means or some of them:

1. The preparation and publication in a cheap and popular form of the diagrams, drawings, maps, &c., necessary to assist the uninformed, and render lectures interesting and attractive.

2. The preparation of lectures or such other helps, references to authorities, &c., on such subjects as "The Ballot," "The Voluntary Principle," &c.

3. The publication and recommendation of works of a popular, cheap, and suitable character, upon general literature, history and biography, written in a Christian spirit for the use of libraries.

4. The promotion of adult classes on subjects of interest excited by the lectures.

The operations were conducted by a committee appointed annually from the members to act on a Christian and unsectarian basis. Co-operation was secured by communications with local branches and by corresponding members, who reported as to local wants.

Held, that part of the objects and means being wholly unconnected with literature, science, or the fine arts, the premises were not exempt from rateability under 6 & 7 Vict. c. 36.

POOR RATE. (*Exemption—Literary Society.*)

Bradford Library v. *Bradford*, 23 *J. P.* 485; 28 *Law J. M. C.* 73; 32 *L. T.* 105; 5 *Jur. N. S.* 513.

The Bradford Library and Literary Society was established by deed, and consisted of proprietors who paid 8*l.* 8*s.* for a share and an annual subscription of 1*l.* 1*s.*, or 15*l.* 15*s.* in one sum. Temporary residents in the town were admitted on paying a quarterly subscription. The society owned and occupied a library and reading room, in which were kept works of standard authors, pamphlets, magazines, and novels, and members were allowed to have books at their own houses, and to introduce one non-resident member. Fines were imposed for non-payment of subscriptions, and if in arrear, the subscription was forfeited. Fines were imposed for infringement of the rules. A proprietor not indebted to the society might transfer his share subject to the regulations. The funds of the society were applied exclusively to the library and other objects connected with it, and no bonus was, or by the laws could be made between the members. Held, the society was one instituted for the purpose of literature, science, and the fine arts exclusively, within 6 & 7 Vict. c. 36, s. 1, notwithstanding the use of the library and contents was confined to the subscribers, and that neither the obligation to pay the subscriptions nor the personal benefit derived in return for the subscriptions, prevented the subscriptions from being voluntary, and so that the building was exempt from poor rates.

POOR RATE. (*Public Charity—School—Occupation by Trustees and Master.*)

R. v. *Stapleton*, 27 *J. P.* 772; 9 *L. T. N. S.* 322.

Certain premises and land were conveyed in 1708 to trustees to hold the same for a house for fifty poor boys of Bristol, according to certain rules. The premises, called Colston's School, were situated in the parish of Stapleton, and consisted of about ten acres, of which three acres were let off to a tenant. The rest consisted of the house, offices, playground, shrubberies, and pleasure grounds. The master had rooms and a garden, but no profit was made of the vegetables, these being consumed by the boys. The master had a salary of 210*l.* and his meals. The parish officers rated the master as occupier of the house, garden and premises, and the trustees as occupiers of the rest of the premises. The court held that this was not a charity of a public nature, and that the rates were right.

POOR RATE. (*Workhouse of Union.*)

R. v. *Toxteth Park*, *E. B. & E.* 167; 25 *J. P.* 645; 30 *Law J. M. C.* 154; 4 *L. T. N. S.* 283; 9 *W. R.* 691.

By the Public Health and Local Government Act, 21 & 22 Vict. c. 98, s. 55, the general district rate is to be "made and levied upon the occupier of all such kinds of property as by the laws in force for the time being are or may be assessable to any rate for the relief of the poor." The township of Toxteth Park consisted of two parts, one being within and one without the borough of Liverpool. The guardians built a workhouse and workhouse hospital in the part of the township of Toxteth Park lying without the borough, and used them for the poor of the whole union. A local board of health for the part without the borough

having made a sewer, which was used by the guardians in respect of the workhouse and hospital, assessed them in a general district rate. Held, that the guardians were the occupiers of such kind of property as were assessable to the poor rate, and therefore were liable to pay the general district rate made by the local board of health.

POOR RATE. (*Occupation—Stall in a Public Building—International Exhibition.*)

Morrish v. *Churchwardens of St. Mary Abbots'*, 27 *J. P.* 470; 32 *Law J. M. C.* 245; 8 *L. T. N. S.* 697.

Morrish contracted with the commissioners of the International Exhibition, to supply refreshments to the public while the Exhibition lasted. He had a certain space of the building assigned to him, with liberty to place counters, which were to become the property of the commissioners, but to be restored on payment of the full consideration monies. Morrish was to provide an office in his part of the building, where notices could be left for him. He and his servants were to be allowed access only at certain hours, and were to keep the place clean. He was to have cellarage accommodation. Morrish having been rated to the poor in respect of his occupation of part of the building,—Held, his interest was not that of an occupier, but merely of a licensee, and therefore he was not rateable to the poor rate.

POOR RATE. (*Exemption—Public Property—Post Office.*)

R. v. *Smith*, 21 *J. P.* 694; 26 *Law J. M. C.* 105; 7 *E. & B.* 483; 3 *Jur. N. S.* 769.

The post-office authorities rented premises in Birmingham. There was an office for letters to be called for by parties, and the parties, having their letters sorted there and kept instead of being delivered as usual, paid a gratuity of one or two guineas to the post-office authorities for the accommodation. The postmaster there residing sold postage stamps, on which he had a commission. Held, he was exempt from the poor rate, the property being held by the servant of the crown exclusively for public purposes.

POOR RATE. (*Exemption—University of Oxford—College Buildings.*)

R. v. *Chancellor of University of Oxford*, 21 *J. P.* 644.

In rating the University of Oxford and the buildings, the test of rateability is whether the buildings are occupied solely for the public purposes for which each was erected, or for some subordinate and private purpose. Thus the university is exempt in respect of the Bodleian Library, the Divinity and other schools, the Convocation House and Apodyterium, the Sheldonian Theatre, the Botanic Garden, Clarendon Buildings, Taylor Institution, and University Galleries. But the university is rateable in respect of a cellar under the Sheldonian Theatre, occupied by a private individual for his own benefit, though without payment; also in respect of the residence of the professor, porter, and head gardener at the Botanic Garden, and the land used by the gardener. Also in respect of the residence of the chairman of the Taylor Institution, so far as the same is referable to private convenience, and not to his public duty.

POOR RATE. (*Exemption—Crown Property—Portsmouth Wharf.*)

R. v. *Stewart*, 22 *J. P.* 480; 27 *Law J. M. C.* 81; 8 *E. & B.* 360.

Certain persons holding offices of trust under the crown were required, for the due discharge of their public duties, to occupy premises, the property of the crown, appropriated respectively to the holders of such offices. Each of them had some accommodation for his personal use, or for the discharge of the necessary duties of his office. Held, that the excess did not take away immunity in respect of the part reasonably necessary for the due discharge of the duties or his personal use, but that for all beyond what was so necessary the liability existed. In ascertaining what is necessary, regard is to be had to the rank and degree of the officers; and when the duties require permanent residence, accommodation for a wife and family is not to be deemed unreasonable.

POOR RATE. (*Exemption—Public Purposes—Militia Storehouse and Stables.*)

R. v. *Fuller*, 19 *J. P.* 700; 8 *E. & B.* 365.

The adjutant of the West Sussex militia was assessed to a rate under a local Act for the regulation of the city of Chichester, in respect of a house, garden, and premises occupied by him as adjutant and keeper of the stores of the regiment. The house was larger than would be required for him if he were not a married man with a family. There were attached to the premises a coach-house and stable not used by the appellant, but actually occupied, by his permission rent-free, by a veterinary surgeon. The 2nd section of 17 & 18 Vict. c. 105, gives powers for providing places for keeping arms, accoutrements, clothing, and other stores belonging to any regiment of militia; and there is a proviso "that the place so hired, purchased, &c., shall contain an orderly and guard room, and magazine, and a sufficient yard or place wherein the men may be mustered for the issue and return of such arms, &c.; provided also, that the justices may add quarters for some of the permanent staff, with conveniences for stores, and no place provided for the keeping of militia stores under this or the recited Acts, nor any buildings or premises appurtenant thereto, shall be liable to be assessed to any county, borough, parochial, or other local rate or assessment." Held,—1. The provision as to the orderly and guard room was not a condition precedent to the right of exemption from poor rates. 2. So much of the premises as was used for stores and official residence of adjutant, including accommodation for wife and family befitting his rank, was exempt under the statute as well as under 43 Eliz. c. 3. The coach-house and stable were rateable if used only for the necessary purposes of the militia storehouse, but if occupied by the veterinary surgeon as a tenant, or as the friend of the adjutant, the person to be rated in respect of them in the former case was the veterinary surgeon, and in the latter case the adjutant.

POOR RATE. (*Public Purposes—Military Band Training School.*)

R. v. *Kneller Hall*, 31 *L. T.* 212.

The expenses of a training school for the military band were defrayed by contributions from officers of the Queen's army, and the masters were allowed to take private pupils at 50*l.* a year each, who boarded and lodged out of the establishment. Held, that the premises were rateable to the relief of the poor.

RATE. (*Rateable Property—Local Improvement Act—Maximum Rate.*)

Ex parte Brown, 26 *J. P.* 389.

A local Act gave power to the town council of Liverpool to levy a rate for certain purposes, which should not in amount exceed 1*d.* in the pound on the rateable value of the property, to be levied as a borough rate. A rate was imposed which would have been less than 1*d.* if the whole rateable property, including unoccupied houses, &c., had contributed, but after deducting unproductive property, it in fact exceeded 1*d.* on those ratepayers who actually paid. Held, the rate was bad and could not be enforced.

RATE. (*Local Act—Occupiers of Parts of Houses.*)

Lobban v. *Cook*, 22 *J. P.* 643; 3 *H. & N.* 238.

In the parish of St. Marylebone a local Act imposes rates on occupiers of houses and tenements within the parish, and where a tenement is let out in parts, or separate apartments, the landlord or owner shall be deemed the occupier. By another section a person occupying a part of a house may deduct rates paid from the next rent. Held, the tenant of part having paid a rate made on the whole house could not deduct the same from his next rent, for such rate ought to have been made on the landlord and not on a part tenant.

RATE. (*Gratuity to Clerk out of Rates.*)

Ex parte Mellish, 8 *Law J. N. S.* 47.

The clerk to the trustees of the parish and vestry clerk of St. Paul's, Shadwell, had done extra work of an important nature connected with legal proceedings in which the trustees were engaged, and the trustees passed a resolution giving him a gratuity of 150*l.* in respect of these services. The treasurer having refused to pay the sum,—Held, a *mandamus* would not be granted by the court of Queen's Bench to compel the treasurer, seeing that this was a gratuity which could not be paid out of the rates.

RATE. (*Distress—Second Distress caused by fraudulent Removal.*)

Lee v. *Cooke*, 22 *J. P.* 177; 3 *H. & N.* 203; 27 *Law J. Exch.* 337.

Certain local commissioners were authorized by their Act to distrain for arrears of drainage rates, and they seized as such distress a beanstack standing on the land of Lee, a person from whom rates were due, and sold it under the distress. When the purchaser attempted to remove the stack he was prevented by the violence of Lee, who assaulted him, and afterwards converted the stack to his own use. The purchase money was not paid to the commissioners. Held, that as the commissioners were prevented realizing the rates out of the distress by the unlawful violence of Lee himself, they were justified in distraining a second time upon the goods of Lee for the same rates.

RATE. (*Distress Warrant—Power of Collector to distrain.*)

Lee v. *Vessey*, 20 *J. P.* 327.

Commissioners for draining a district and maintaining the navigation of a river were empowered to impose rates on the occupiers of land, and if unpaid, by warrant under their hands and seals to empower the respective collectors to levy the same by distress and sale. The commissioners authorized Lewin, a collector, and Mastin, a bailiff, to levy by distress and sale of the goods of Dymoke. Mastin alone made the distress. Held, though the warrant empowered both jointly, the distress was legally made by one of them, and it was not necessary the person distraining should be the ordinary collector. At most it was a want of form in the warrant.

RATE. (*Land—Railway as "Works"—Lighting Rate.*)

R. v. *Midland Railway Company*, 19 *J. P.* 660.

A local Improvement Act for lighting the town of Chesterfield empowered commissioners to rate the tenants or occupiers of all houses, warehouses, shops, cellars, &c., and all buildings, erections, works, and tenements, excepting land. A railway was rated, a railway station, warehouses, erections, engine-houses, works, tenements, hereditaments, and stables. Held, the exemption extended only to land used for the purposes of agriculture or gardening, or to any kind of vegetation, together with the roads and other matters that are ancillary to those purposes, and that hereditaments in which capital had been invested for habitation, or in works for purposes of profit from manufacturing or mechanical industry, were liable to be rated; that a line of railway simply laid on the surface of the ground was a "work" for profit from mechanical industry, and when constructed on arches, with walling, a building or erection, and therefore the railway company was well rated, and was not exempt as being land.

RATE. (*Waterworks—Letting Water Power to Mills.*)

Shaws Water Company v. *Greenwich Police Trustees*, 28 *J. P.* 70; 9 *L. T. N. S.* 182.

The Shaws Water Company were empowered by statute to make reservoirs and supply the town of Greenwich with water, and to let sites for mills on the banks of the waterfalls from their reservoirs at certain rents for the use of the water power. In rating the company under a local Improvement Act, as occupiers, the water rents they drew from the mill-owners were included in the annual rateable value of the waterworks. Held, the rate was right, for the water rents were part of the yearly value of the waterworks.

RATE. (*Parliamentary Rate—Local Improvement.*)

Kent Justices v. *Maidstone Commissioners*, 24 *J. P.* 710; 2 *L. T. N. S.* 353.

A local Act exempted the county gaols from "all rates, taxes, or assessments whatsoever, parliamentary or parochial." Held, a rate under a local Improvement Act was a parliamentary tax or rate.

RATE. (*Local Improvement—Notice to Owners before rating.*)

Kerr v. *Wilkie*, 24 *J. P.* 211.

A local Improvement Act gave powers of rating, and constituted individuals holding lands of a certain value trustees, and notice was to be given of all meetings. Held, that Kerr, who, though possessing the qualification, never acted as trustee, was not entitled to notice. Held, further, that no notice of the purpose of an adjourned meeting need be given if it was given for the original meeting.

RATE. (*Local Act—Annual Value—Commissioners' Qualification.*)

Easton v *Alce*, 7 *H. & N.* 452.

By a local Act it was enacted that twelve inhabitant householders resident in the town or parish of Rye rated to the relief or maintenance of the poor of the said parish by one or more rate or rates to the amount of 10*l.* per annum, shall be appointed commissioners of the harbour of Rye. Held, the rateable annual value, and not the rates payable, conferred the qualification.

RATE. (*Occupation subsequent to making of Rate.*)

R. v. *Eddowes*, 28 *Law J. M. C.* 84; 5 *Jur. N. S.* 469.

By a local Act no person shall be qualified to be a commissioner unless at the time of election rated to the poor. E.'s name was not in the last rate made previously to the declaration at the time it was allowed, but he came into occupation of premises after the rate was made, and his name was inserted in the rate book under 17 Geo. 2, c. 38, s. 12, before the day of election. Held, that he was not rated within the meaning of the local Act, and therefore was not qualified.

RELIEVING OFFICER. (*Causing Pauper to depart from Parish.*)

Shee v. *Dannett*, 26 *J. P.* 359.

Shee, the relieving officer of Witham Union, gave John Barker, who was resident in that union in the parish of Fairsted, an order to go into the union workhouse, but as Barker did not go, but went to live with his daughter out of the union, Shee obtained the order back, and afterwards Barker became ill at his daughter's parish, and applied to the Chelmsford Union there for relief. Held, there was no reasonable evidence of Shee committing an offence under 9 & 10 Vict. c. 66, s. 6, by causing Barker to become chargeable to the Chelmsford Union.

RELIEVING OFFICER. (*Surety—Re-appointment.*)

Basingstoke Union v. *Smith*, 19 *J. P.* 807.

James Ellis, the relieving officer of a district in a union, being required by the guardians to find a surety, the ordinary bond, in the form settled by the poor law commissioners, was entered into by James Ellis, and George Ellis as his surety, in December, 1847. At that time there was a balance of 61*l.* 3*s.* 11*d.* due from Ellis to the guardians. On the 12th February, 1848, Ellis tendered his resignation, which was accepted, but he was again re-appointed on the 24th March, 1848, and he continued in

office till his death in 1854. There was in the hands of Ellis at the time of his resignation a balance of 76*l.*, the money of the guardians, and such balance was carried over and continued in his accounts with the guardians upon his re-appointment. At Ellis's death there was a balance of 91*l.* due to the guardians, for which the guardians sued George Ellis on his bond of 1847. Held, that the liability of the surety terminated on the resignation of Ellis in 1847, and therefore the action to recover what was due at his death was not competent; nor could the guardians recover the sum that was due at the time of the resignation, for they had treated it as paid by carrying it on to the new accounts, and so creating a new balance.

REMOVAL. (*Jurisdiction of Justices of adjoining County.*)

R. v. *Tiffield*, 22 *J. P.* 784.

An order of removal from a parish in Oxfordshire to one in Northamptonshire was made at Stoney Stratford in Bucks, and so purported, but without naming the county. The justices were justices of the two adjoining counties of Bucks and Oxford. Held, the order was bad under 11 & 12 Vict. c. 43, ss. 6, 35, the latter section qualifying the former.

REMOVAL. (*Copy of Depositions—Clerk of Justices.*)

R. v. *St. Alkmund*, 27 *J. P.* 263; 3 *B. & S.* 347; 32 *Law J. M. C.* 99; 7 *Law T. N. S.* 622.

When a copy of the depositions on which an order of removal was made is wanted by the overseers of the parish to which the removal is made, they must apply to the clerk of the justices, and not to the overseers of the removing parish.

REMOVAL. (*Grounds of Removal—Evidence—Quarter Sessions—* 11 *& 12 Vict. c.* 31, *s.* 57.)

R. v. *Ruyton*, 25 *J. P.* 741; 1 *B. & S.* 534; 30 *Law J. M. C.* 229; 7 *Jur. N. S.* 967.

On an appeal against a removal order the settlement relied on by the respondents was the settlement of the great grandfather of the pauper, and the statement of grounds, after stating the derivative settlement of the father and grandfather, alleged that the great grandfather's settlement had been acknowledged by the appellant parish relieving his widow, and receiving a member of the same family removed for the same reason. Evidence was tendered of another removal of another member of the same family on the same derivative settlement, but which had not been set forth in the grounds of removal, and the court admitted the evidence, but stated a case for the Queen's Bench, whether such evidence was properly admitted.

Held, that as the stat. 11 & 12 Vict. c. 31, s. 7, made the decision of the court of quarter sessions final as to the sufficiency of the grounds of removal, there was no power in that court to reserve a case for the opinion of a superior court. Further held, that the modes of acknowledgment of the settlement being mere matters of evidence of the original settlement, evidence of another mode not set forth in the grounds was admissible.

REMOVAL. (11 & 12 *Vict. c.* 31—*Grounds of Removal—Power to amend—Issue—Practice.*)

R. v. *Inhabitants of West Bromwich*, 27 *J. P.* 726.

On an appeal against a removal order one of the grounds of chargeability having stated that the pauper served as an apprentice in the parish of Tipton, but slept in the appellant parish of West Bromwich, the appellants traversed this ground, but did not allege any settlement in Tipton. Held, at the hearing of the appeal, that the appellants could not be allowed to prove that the settlement was in Tipton. Held further, that the justices at quarter sessions might have amended the grounds of appeal so as to allow an allegation that the pauper was settled in Tipton.

REMOVAL. (11 & 12 *Vict. c.* 31—*Grounds of Removal—Amendment.*)

R. v. *Inhabitants of Merthyr Tydvil*, 27 *J. P.* 773.

It is entirely a matter of discretion for the court of quarter sessions whether they will amend the grounds of appeal against a removal order or not.

REMOVAL. (11 & 12 *Vict. c.* 31—*Amendment of Grounds of Removal.*)

Llangeny v. *Merthyr Tydvil*, 27 *J. P.* 452; 32 *Law J. M. C.* 265; 8 *L. T. N. S.* 696.

The grounds of removal of a pauper did not allow evidence to be given of a former order of removal made by the respondent parish on the appellant parish of the same pauper unappealed against; whereon the court of quarter sessions on application added a ground expressly setting forth this. Held, it was competent to the court to make the amendment.

REMOVAL. (*Recital of former Order—Estoppel.*)

R. v. *Caerwys*, 30 *L. T.* 256.

An order of removal from A. to B. having been appealed, the respondents relied upon a former order of removal of the same pauper when a child of six weeks old with her mother. Held, the recital in the former order of the pauper being the daughter of C. did not estop the appellants from disputing her illegitimacy, seeing that her illegitimacy would have afforded no ground of appeal against the former order.

REMOVAL. (*Notice of Chargeability—Service by Post on Sunday.*)

R. v. *Leominster*, 26 *J. P.* 342; 31 *Law J. M. C.* 95; 2 *B. & S.* 391; 6 *L. T. N. S.* 216; 8 *Jur. N. S.* 793.

Where the notice of chargeability and grounds of removal of a pauper are sent by post to the overseers of the parish to which the pauper is to be removed, and it arrives in the ordinary course of post on a Sunday, and is delivered on that day, the service is not void under the Lord's Day Act, for even if the delivery were within the meaning of service in that Act, yet transmission by post could not be said to be service as used in 29 Ch. 2, c. 7, nor is the case within the mischief of that Act, and it would lead to great inconvenience and embarrassment to parochial officers if they were bound to calculate the course of post in all cases.

REMOVAL. (*Justice of the Quorum—Mayor of Borough*—13 & 14 *Ch.* 2, *c.* 12, *s.* 1; 35 *Geo.* 3, *c.* 101, *s.* 1; 5 & 6 *Will.* 4, *c.* 76, *s.* 57.)

R. v. *Inhabitants of Llangian*, 27 *J. P.* 566; 32 *Law J. M. C.* 225; 8 *L. T. N. S.* 422.

It is no longer necessary that either of the justices making an order of removal should be justices of the quorum. It seems that a mayor of a borough who is made a statutory justice is in the position of a justice of the quorum, and not of a justice *simpliciter*.

REMOVAL. (*Pregnancy of Pauper—Sickness.*)

R. v. *Huddersfield*, 22 *J. P.* 160; 7 *E. & B.* 794; 26 *Law J. M. C.* 169; 29 *L. T.* 179.

Pregnancy is not sickness within the meaning of 9 & 10 Vict. c. 66, s. 4. Therefore a woman who had no other sickness, but received relief by reason of pregnancy, was liable to be removed.

REMOVAL. (*Appeal to wrong Sessions—Costs.*)

R. v. *Recorder of Leeds*, 25 *J. P.* 389; 30 *Law J. M. C.* 86; 7 *Jur. N. S.* 210.

Where the parties appeal against an order of removal to the wrong sessions, and give notice of abandoning the appeal after costs are incurred, —Held, such wrong sessions may give costs up to the abandonment against the overseers.

REMOVAL. (*Interested Justices.*)

Ex parte the Churchwardens of Ilchester, 25 *J. P.* 56.

A removal order was sought to be removed by *certiorari* to be quashed, on the ground that two of the justices who heard and confirmed the appeal against the order were rated inhabitants of the respondent parish. The *certiorari* was refused because it appeared the attorney of the parish knew of the objection, and acquiesced in the hearing.

REMOVAL. (*Constructive Removal—Retrospective Effect of* 24 & 25 *Vict. c.* 55, *s.* 1.)

R. v. *Inhabitants of Hendon*, 27 *J. P.* 677; 32 *Law J. M. C.* 202; 8 *L. T. N. S.* 276.

A female pauper had resided in Bishops Lydiard parish for three years, but not for five years, when in 1855 an order of removal was made to remove her to Hendon. The pauper was however not actually removed in consequence of the Hendon parish offering to pay the relief while she remained in Bishops Lydiard. The pauper on this arrangement continued there receiving relief from Hendon till June, 1862, when an order of removal to Hendon was obtained. Held, the pauper could not then be removed, for she had resided more than three years in B.,

and the statute 24 & 25 Vict. c. 55, prevented her removal, and she could not be held to have been residing constructively in Hendon all that time.

REMOVAL. (*Suspended Order—Charges.*)

R. v. *JJ. of North Riding of York*, 26 *J.P.* 629; 1 *B. & S.* 471; 31 *Law J. M. C.* 189; 8 *Jur. N. S.* 1176.

When two justices have made an order for payment of the charges incurred under a suspended order of removal, and this order is sought to be enforced under 35 Geo. 3, c. 101, s. 2, before one justice, and the order is valid on the face of it, the duty of such justice is merely ministerial, and he is bound to issue his warrant of distress, whether there was an appeal to quarter sessions or not.

REMOVAL. (*Suspension—Costs—Certiorari—Amendment.*)

R. v. *Hellingley*, 23 *J. P.* 628; 1 *E. & E.* 749; 28 *Law J. M. C.* 167; 5 *Jur. N. S.* 626.

An order for the removal of the pauper was made, and the execution of it duly suspended, on account of his illness. After the death of the pauper, an order was obtained from justices of the same jurisdiction as those who had made the order of removal, and the order of suspension, whereby the officers of the parish, to which the first order directed that the pauper should be removed, were required to pay to the officers of the parish which had obtained the order of removal, their costs of relieving the pauper subsequently to the suspension. The order for costs had no venue, and in it the justices making it described themselves as justices "for" the jurisdiction, but did not state that they were acting in the place of the jurisdiction. On a *certiorari* being applied for,—Held, the order ought to be and it was amended by the court without costs, pursuant to 12 & 13 Vict. c. 45, s. 7, by inserting the words "in and" before the word "for" in the part of the order by which the justices described themselves.

REMOVAL. (*Suspension of Order—Time of Suspending.*)

R. v. *Inhabitants of Llanllechid*, 24 *J. P.* 548; 29 *Law J. M. C.* 102; 6 *Jur. N. S.* 198; 1 *L. T. N. S.* 326.

Justices have no power after having made an order of removal of a pauper to suspend such order, merely because after the date of the order, and before actual removal, the pauper has become too ill to be removed. The suspension must take place at one and the same time as the making of the order of removal. The legislature has not provided for the case of illness supervening after the order was made.

REMOVAL. (*Irremovability—Period of Residence—Militiaman.*)

Horton v. *Leeds*, 20 *J. P.* 198.

A militiaman is a soldier within the proviso in 9 & 10 Vict. c. 66, s. 1, which directs, that the time during which a pauper shall have served Her Majesty as a soldier shall be excluded from the computation of time necessary to acquire the status of irremovability.

REMOVAL. (*Irremovability—Sentence of Penal Servitude.*)

R. v. *Potterhanworth*, 23 *J. P.* 564; 1 *E. & E.* 262; 28 *Law J. M. C.* 56; 32 *L. T.* 158; 4 *Jur. N. S.* 1277.

When a person is confined in a prison in England under a sentence of penal servitude, he is a prisoner within the statute 9 & 10 Vict. c. 66, s. 1, and the period of confinement is to be deducted from the period of residence, conferring a status of irremovability. Thomas Lintin was sentenced to six years' penal servitude, and removed to Milbank prison. While there his wife and children were sought to be removed. He had resided in Branston parish for more than five years before his apprehension, and the wife and children also, and they continued to reside there. Held, they were irremovable, for imprisonment is not, like transportation, a break of residence.

REMOVAL. (*Pregnancy of Pauper—Delay in Removal—Expenses.*)

Hill v. *Thorncroft*, 25 *J. P.* 262; 30 *Law J. M. C.* 52; 7 *Jur. N. S.* 163.

Where an order of removal is made, but the pauper, owing to pregnancy or illness supervening, is not actually removed at the proper time, the removing parish can only recover from the parish of settlement the costs of maintenance for twenty-one days after notice of chargeability, or until the appeal, if any, is disposed of, and no longer, such a case being a *casus omissus* in the statute.

REMOVAL. (*Costs of Maintenance—Limitation of Time.*)

Hill v. *Thorncroft*, 25 *J. P.* 262, *supra.*

An information to recover the costs of maintaining a pauper between the service of the notice of chargeability and the actual removal must be preferred within six months from the time when the matter of complaint arose, for such information is within the 11th section of Jervis's Act, 11 & 12 Vict. c. 43, and is not exempted as coming within the 35th section and the words "all warrants or orders of removal."

REMOVAL. (*Married Woman—Incestuous Marriage.*)

R v. *Inhabitants of Brighton*, 25 *J. P.* 630; 30 *Law J. M. C.* 197; 5 *L. T. N. S.* 56.

A woman being settled in a parish by reason only of her marriage with a man: Held, the order of removal bad, on the ground that such marriage was void for incest, it being a marriage between a man and the niece of his deceased wife.

REMOVAL. (*Widow—Irremovability—Death of Husband at Sea.*)

R. v. *Cudham*, 23 *J. P.* 564; 28 *Law J. M. C.* 105; 5 *Jur. N. S.* 269; 32 *L. T.* 253.

For twenty years next preceding the death of William White, which took place in the parish of Bexley, on 26th September, 1856, he had resided in that parish exclusively. On 23rd April, 1854, he married Naomi, who had not before resided in Bexley, and she resided with him from thence-

forward till his death, and continued to reside till 14th November, 1857, when an order of removal was obtained for removing her and her two children to Cudham, the place of the last legal settlement of White. Held, that though White had long before his death acquired the status of irremovability from Bexley, Naomi and the children were properly removable from Bexley to Cudham after his death, she not having herself acquired the status of irremovability under 9 & 10 Vict. c. 66, and 11 & 12 Vict. c. 111, and her irremovability from Bexley during the life of her husband being consequent only on the statutory provision made to prevent the separation of husband and wife.

REMOVAL. (*Permanent Sickness—Appeal—9 & 10 Vict. c. 66, s. 4.*)

Thanington v. *St. Mary*, 27 *J. P.* 404; 3 *B. & S.* 432; 32 *Law J. M. C.* 78; 9 *Jur. N. S.* 820; 7 *L. T. N. S.* 676.

Where justices have, in their removal order, stated that they were satisfied that the sickness of the pauper would produce permanent disability, the court of quarter sessions cannot review the grounds on which they came to that decision, and inquire into the nature of the sickness.

REMOVAL. (*Temporary Sickness—Personal Sickness.*)

R. v. *St. George, Middlesex*, 26 *J. P.* 151; 2 *B. & E.* 317; 31 *Law J. M. C.* 85; 8 *Jur. N. S.* 714; 5 *L. T. N. S.* 791.

A husband became temporarily sick, and went into hospital, and the wife and children then became chargeable to the parish where they resided, solely in consequence of his sickness. Held, the wife and children were not exempt from removal, under 9 & 10 Vict. c. 66, s. 4, for the sickness was not personal to them.

REMOVAL. (3 *Geo.* 2, *c.* 29, *s.* 8—*Certificate of Justices—Pregnant Woman.*)

R. v. *Overseers of Hartshead*, 28 *J. P.* 55.

A certificate of settlement dated in 1827, and thus more than thirty years old, was objected to on an appeal against a removal order, because it did not state the oath of the attesting witness to be made in accordance with the stat. 3 Geo. 2, c. 29, s. 8; but merely stated the word "witness," and also that the certificate, though given to a woman pregnant of a bastard child, did not include and apply to the child afterwards born. Held, that both objections were untenable.

REMOVAL. (*Irremovability—Costs—Common Fund.*)

Ex parte Bedminster Union, 21 *J. P.* 806; 4 *Jur. N. S.* 301; 6 *W. R.* 74.

The costs of relieving a wandering pauper whose settlement is unknown, but who has resided many years in a parish, are payable out of the common fund of the union in which such parish is, under 11 & 12 Vict. c. 110, s. 3.

REMOVAL. (*Irremovability—Casual Poor.*)

R. v. *Cuckfield*, 20 *J. P.* 196.

The pauper had acquired the status of irremovability in the parish of Bolney, by reason of five years' residence there, and in passing through Cuckfield parish in September, 1847, met with an accident, which made

it necessary to remove him to the union workhouse common to Cuckfield and Bolney. He remained there till 27th October, 1854, by which time he had become permanently disabled by rheumatism, aggravated by the accident, and at different times he had been employed in picking oakum in the workhouse. Until December, 1849, the costs of maintaining the pauper in the workhouse were charged to Bolney, thenceforward till 22nd September, 1854, to the common fund of the union. After 22nd September, 1854, the expenses were charged to Cuckfield parish, and on 27th October, 1854, Cuckfield obtained an order for removing him to West Grinstead, the place of his settlement. Held, that at the time of the application for the order of removal, there was evidence before the justices making the order from which the justices might infer that the pauper had ceased to be casual poor in Cuckfield, and had elected to come and settle there, within 13 & 14 Ch. 2, c. 12, and therefore that being also chargeable to Cuckfield, the order of removal was well made, notwithstanding his status of irremovability in Bolney. His removability in Cuckfield did not interfere with his irremovability in Bolney.

REMOVAL. (*Period of Residence—Irremovability—Relief to Pauper's Wife as Lunatic Pauper.*)

R. v. *Churchwardens of St. George, Bloomsbury*, 27 *J. P.* 662; 32 *Law J. M. C.* 217.

Where a man resides in a parish from which his wife has been sent to a lunatic asylum, and maintained there at the expense of his settlement parish, the period during which she remains in the asylum is to be deducted from the time necessary to confer the status of irremovability on the husband, for relief of this kind to her is relief to him.

REMOVAL. (*Period of Residence—Relief to Lunatic Pauper Child.*)

St. Pancras v. *St. Mary, Islington*, 26 *J. P.* 661; 3 *B. & E.* 46; 9 *Jur. N. S.* 155; 6 *L. T. N. S.* 606.

Where a lunatic pauper child above sixteen, who has lived unemancipated in the family of a widowed mother, has been sent to the county lunatic asylum, and the support has been charged to the parish of settlement, such support to the child is not reckoned as relief to the mother, so as to make the period of such support liable to be deducted from the period conferring a status of irremovability upon the mother. And it seems if the child were under sixteen it would make no difference.

REMOVAL. (*Period of Residence—Break—Serving under a Contract Abroad.*)

Wellington v. *Whitchurch*, 27 *J. P.* 644; 8 *L. T. N. S.* 456.

William Brooks had resided in the parish of Bucklan Monachorum for five years and upwards, when in 1859 he entered into a contract to go to Cuba, and serve as a miner there, the agreement being that part of his wages was to be paid to his wife and children, who remained in his absence in his house in the parish of B. He intended to return home at the end of the three years, but during that period he became ill, and was sent home to his wife and family, when he became chargeable in B. Held, this absence in Cuba constituted a break in his residence in the parish of B., and therefore he was removable. The only guide in such

cases is to consider whether the absence is temporary or permanent, and three years is too long a period to be considered temporary.

REMOVAL. (*Irremovability—Unemancipated Child.*)

R. v. *Elvet*, 23 *J. P.* 807; 29 *Law J. M. C.* 17; 5 *Jur. N. S.* 1350; 33 *L. T.* 202.

Margaret Storey, the pauper, was born in January, 1844, in the township of Elvet, in which the father resided from 1835 till his death in December, 1857. Her mother, the wife of the father, became chargeable as a lunatic to Elvet in July, 1847, and was removed to the county lunatic asylum, where she was maintained at the expense of the township of Stockton, which was the place of the husband's settlement, until her removal to the union workhouse of the township of Stockton, where she was maintained as a lunatic till her death, in October, 1858. The pauper resided with her father in Elvet from her birth till the time of his death and thenceforward till February, 1858, when she became chargeable there, continuing so till the 18th December, 1858, when an order was obtained for her removal from Elvet to Stockton. Held, she had acquired the status of irremovability from Elvet, and the order of removal was bad. Per Lord Campbell, C. J.: "The child by her residence with her father for the period stated, acquired the status of irremovability, and as her mother died before the order was applied for, she did not lose it." Per Erle, J.: "The period of residence of an unemancipated person unites with the period of the emancipation. The father having acquired the status of irremovability, the daughter had it also."

REMOVAL. (*Young Children—Mother Irremovable.*)

R. v. *Inhabitants of Aughton*, 25 *J. P.* 711; 4 *L. T. N. S.* 244.

A widow who was irremovable, had three young children under seven years of age, who lived with her; but whom she could not support, and the overseers agreed to take the children into the workhouse, the mother consenting, but not being informed of the fact that the object of the overseers was to obtain an order of removal soon afterwards to their place of settlement, which was far distant. The order of removal was obtained accordingly; but the court held that it had been obtained by a fraud on the mother, and quashed it. This case was held distinguishable from *R.* v. *Coombs*, 20 *J. P.* 516, where the mother abandoned the children.

REMOVAL. (*Young Children—Desertion by Mother.*)

R. v. *Coombs*, 20 *J. P.* 516; 25 *Law J. M. C.* 59.

The father of three children died in 1848, and in 1854 the mother being unable to support them, being then of the age of 14, 11, and 6, respectively, they were going about the street destitute. The mother was living with a man, in whose house they slept at night; they were taken into the workhouse, and removed about six months afterwards, under an order of removal to the place of settlement. Held, the order was good, because practically the mother had deserted the children, and therefore not residing with the mother, they were not prevented by the statute 9 & 10 Vict. c. 66, s. 3, from being removed.

REMOVAL. (*Child under Nurture—Child born in Workhouse.*)

St. Clement Danes v. *St. Giles-in-the-Fields*, 27 *J. P.* 212; 7 *L. T. N. S.* 324; 32 *Law J. N. S.* 25; 3 *B. & E.* 143.

Ellen O'Connor, an unmarried woman, having no settlement in England, had been residing nine months in the parish of St. Clement Danes, within the Strand Union. Being pregnant and expecting soon to be confined, she, stating where she lived, asked the relieving officer of the Strand Union for an order of admission into the workhouse. He said he could not give her an order then, but she was to come again to the office when she was taken ill, and she would get an order. The same day he called to verify her statement as to where she was living. The same evening the woman finding labour coming on, went to the union workhouse, stated the circumstance, was admitted, and there delivered. In the workhouse books she was entered among casual poor. The mother and child afterwards went to reside in the parish of St. Giles-in-the-Fields, where the mother being unable to maintain the child, it was taken to St. Giles's workhouse. Held, that the mother at the time of her going to the Strand Union workhouse was chargeable to St. Clement Danes, and therefore the child's settlement was there, and so was removable from St. Giles, though under the age of nurture, seeing that it was separated from the mother. By the stat. 54 Geo. 3, c. 170, s. 3, birth in a workhouse is taken to be the same as birth in the parish sending the mother to the workhouse. When the mother in the circumstances applied to the relieving officer of the Strand Union, she became chargeable to the parish of St. Clement Danes.

REMOVAL. (*Three Years' Residence—Retrospective Effect of* 24 *&* 25 *Vict. c.* 55, *s.* 1.)

R. v. *Inhabitants of Preston*, 27 *J. P.* 581; 32 *Law J. M. C.* 180; 8 *L. T. N. S.* 274; 9 *Jur. N. S.* 1039.

Under the stat. 24 & 25 Vict. c. 55, s. 1, the residence of a pauper in a union for three years is to be reckoned retrospectively, and it is not necessary that the whole period of three years should be subsequent to the date of March, 1862, when the Act came into operation.

REMOVAL. (*Three Years' Residence—Retrospective Effect of* 24 *&* 25 *Vict. c.* 55, *s.* 1.)

Salford v. *Manchester*, 27 *J. P.* 389; 7 *L. T N. S.* 123; 32 *Law J. M. C.* 107; 9 *Jur. N. S.* 821.

Where an order of removal was made before 25th March, 1862, when the statute 24 & 25 Vict. c. 55, s. 1, came into operation, but the pauper was not sought to be removed till after that date, and when he had resided three years in the union,—Held, his removal could no longer be effected, for the three years must be computed backwards from the above date.

SETTLEMENT. (*Evidence—Regimental Order Book—Public Document —Custody.*)

R. v. *Governors of the Poor of Sudbury*, 27 *J. P.* 823.

An entry in the description book of a regiment of the guards, dated in 1799, which book was made up from the attestation of recruits, but

as to which book the Mutiny Act of that period did not make it evidence as to the matters contained in it, is not admissible evidence of the birth of the soldier there mentioned, either on the ground that the original was to be presumed to be made on oath, or on the ground that the book was kept by a public officer in the course of his duty.

SETTLEMENT. (*Evidence of Pedigree—Father's Marriage.*)

R. v. *Inhabitants of St. Marylebone*, 27 *J. P.* 429.

On an appeal against an order of removal of a woman to the parish of St. Leonard, on the ground that her father was settled in that parish, and she had no other settlement than his,—evidence was tendered of a statement of the deceased father, that he never was married, and if so, then it followed that the settlement would fail. Held, the statement was admissible, it being a case of pedigree about the father's family, and, as the father was a member of his own family, his hearsay evidence was admissible.

SETTLEMENT. (*Appeal to Quarter Sessions—Power to adjourn.*)

Cambridge Union v. *Guardians of Birmingham*, 25 *J. P.* 550; 1 *B. & S.* 61; 30 *Law J. M. C.* 137.

On the hearing of an appeal as to the settlement of a lunatic pauper, as well as for general purposes, the court of quarter sessions has an inherent power to adjourn the hearing of a part-heard case to the next sessions.

SETTLEMENT. (*Renting a Tenement—Occupation of House as Servant —Wesleyan Minister.*)

Tiverton v. *Churchwardens of Mangotsfield*, 25 *J. P.* 359; 30 *Law J. M. C.* 79; 7 *Jur. N. S.* 209; 3 *L. T. N. S.* 696.

A Wesleyan minister who occupies a house under the usual custom among the Wesleyans, though assessed to the poor rate and paying the rates, and also the rent of the house, is, nevertheless, not the *bonâ fide* hirer of the house, but is merely the servant or agent of the circuit stewards, and therefore does not acquire a settlement by renting the tenement so occupied.

SETTLEMENT. (*Renting a Tenement—House in Floors—Separate outer Door.*)

R. v. *Inhabitants of Elswick*, 25 *J. P.* 324; 30 *Law J. M. C.* 66; 7 *Jur. N. S.* 45; 3 *L. T. N. S.* 321.

To constitute a separate dwelling house under 6 Geo. 4, c. 57, s. 2, the renting of which gives a settlement, there must be a distinct and separate outer door, and therefore where two tenants have a common passage and outer door, neither has a dwelling house in this sense.

SETTLEMENT. (*Renting a Tenement—Quarterly Tenancy*).

Willesden v. *Paddington*, 27 *J. P.* 324; 9 *Jur. N. S.* 874; 32 *Law J. M. C.* 109; 7 *L. T. N. S.* 784.

Joseph Whurr in December, 1859, entered into an agreement "to take a cottage for three months, from 25th December, 1859, at the yearly rent

of 18*l.*, the first monthly payment to be made 25th January, 1860, and it is hereby agreed that three months' notice from either party to the other shall be a sufficient notice to quit." He occupied the cottage for eighteen months. Held, that this was substantially a yearly tenancy, whenever the parties agreed to go on for a year, and a settlement was thereby acquired.

SETTLEMENT. (*Renting a Tenement—Declaration of deceased Father of Pauper.*)

R. v. *Birmingham*, 26 *J. P.* 198; 1 *B. & S.* 763; 5 *L. T. N. S.* 309; 8 *Jur. N. S.* 37.

Where the settlement of a pauper depended on that of his father, deceased,—held, that a declaration of the father that he occupied a tenement in the parish at a rent of 20*l.*, was admissible evidence to prove the tenancy and the amount of rent, for the statement of a deceased person as to occupying a tenement is admissible as against the interest of such person.

SETTLEMENT. (6 *Geo.* 4, *c.* 57, *s.* 2—*Renting a Tenement—Monthly Rent.*)

R. v. *St. Giles, Cripplegate*, 27 *J. P.* 775.

P., by a written agreement, had agreed to take a house from 25th March, at a monthly rent of 1*l.* 16*s.* 8*d.*, and "one month's notice to quit, to expire at either of the four usual quarter days, to be sufficient on either side." P. entered, and occupied the house for more than two years, and paid the rent, poor rate, &c. Held that P. acquired a settlement by hiring a tenement for the term of one whole year.

SETTLEMENT. (*Renting a Tenement—Occupation for a whole Year—* 6 *Geo.* 4, *c.* 57, *s.* 2.)

R. v. *Inhabitants of West Ardsley*, 27 *J. P.* 567; 32 *Law J. M. C.* 255.

A pauper, in 1844, rented and occupied a cottage at 5*l.* 10*s.* for a year. He also at the same time rented land, with the minerals, on the terms that he was to pay 2*l.* 10*s.* for the use of the surface, and when the minerals were reached, he was to pay 115*l.* an acre. The coals were reached about the middle of the year, so that at the end of the year he had paid more than 10*l.* for the two premises. Held, that as the increased rent for the coals was not payable for the whole year, and without that the remaining rent covering the whole year was only 8*l.*, the statute 6 Geo. 4, c. 57, s. 2, was not satisfied, and so that no settlement was gained.

SETTLEMENT. (*Hiring and Service—Holidays.*)

R. v. *Twemlow*, 20 *J. P.* 645.

In the county of Chester the usage is for servants hired for a year to enter into the service on 2nd January, and leave on 26th December following, the object being that the servants should have some days as holidays. The settlement of a pauper who had been hired for a year, and entered and left the service at the above times, in 1829, being sought to be proved, held this amounted to a hiring and service for a year, for the master may be taken to have impliedly dispensed with the service during the Christmas holidays.

SETTLEMENT. (*Apprenticeship—Evidence—Reasonable Presumption.*)

R. v. *Fordingbridge*, 23 *J. P.* 38; 27 *Law J. M. C.* 290; *E. B. & E.* 678; 4 *Jur. N. S.* 951; 31 *L. T.* 197.

An apprenticeship may be presumed, though there is no express evidence of the deed of apprenticeship, if other facts are inconsistent with any other supposition. Hence, in proving a settlement by apprenticeship sixty years ago, though a deed had been searched for in vain, it was held that a man had been apprenticed, because he lived with his master, and was treated like an apprentice.

SETTLEMENT. (*Place of Birth—Evidence of Pauper.*)

R. v. *Crediton*, 22 *L. T.* 722; *E. B. & E.* 231; 27 *Law J. M. C.* 265; 31 *L. T.* 114; 4 *Jur. N. S.* 926.

The father and mother of the pauper were married in the parish of Crediton, the pauper was baptized there, and also two younger sisters, and one of the younger sisters first recollected herself as living with her father and mother and the pauper there, in one family. Held, these facts were evidence that the pauper had been born in Crediton parish.

SETTLEMENT. (*Apprenticeship—Sleeping on last Night of Apprenticeship.*)

Barton v. *Hulme*, 27 *J. P.* 405; 32 *Law J. M. C.* 102; 9 *Jur. N. S.* 795; 7 *L. T. N. S.* 859.

Charles Kay was an apprentice serving his master in the parish of Barton-upon-Irwell, but slept at night at lodgings found by the master in Barton, except on Saturdays and Sundays, when, for want of room in the lodgings, he slept with friends in the parish of Hulme. On Saturday, the last day of his apprenticeship, he left work at 2 P.M. as usual and slept at Hulme, and returned on Monday following to resume work at Barton. He had slept more than forty days in both Barton and Hulme. Held, that his settlement was in Hulme, for the arrangement to sleep at Hulme was not indulgence but matter of business and part of the arrangement, and so his sleeping there the last night of the apprenticeship was in furtherance of the apprenticeship.

SETTLEMENT. (*Apprenticeship—Evidence of Indenture—Reasonable Search.*)

Braintree v. *St. Mary, Bury St. Edmunds*, 23 *J. P.* 245; 1 *E. & E.* 51; 28 *Law J. M. C.* 1; 32 *L. T.* 90.

On an appeal against an order of removal in order to let in secondary evidence of the indenture of Charles Andrews in 1817, a search was proved among the papers of the deceased master by the master's son. There was no evidence that all the master's papers were handed over to the son, and certain questions were put as to whether all those papers were handed over, and whether anything had been stated either by the deceased master or the deceased apprentice as to the existence of an apprentice indenture. Held, as the issue was not whether the document existed, but whether a reasonable search had been made for it, the ques-

tions were proper, not as eliciting evidence on the appeal, but to satisfy the conscience of the court whether a proper search had been made.

SETTLEMENT. (*Evidence—Custody of Apprenticeship Deed—Secondary Evidence.*)

R. v. *Inhabitants of Hinckley*, 27 *J. P.* 823; 32 *Law J. M. C.* 158; 9 *Jur. N. S.* 1054; 8 *L. T. N. S.* 270.

On the hearing of an appeal at quarter sessions as to the settlement of a lunatic pauper, in order to prove that Samuel Walton (whose settlement was that of the pauper) was settled by residence as an apprentice in 1791 in the parish of Hinckley, it was proposed to prove the apprenticeship by a counterpart as secondary evidence of the deed. A search had been made among the papers of the deceased apprentice, but the original was not found. No search had been made among the papers of the master; and this was objected to the admissibility of the counterpart. But the court held that after the lapse of sixty years it was more reasonable to expect the original to be in the possession of the apprentice than the master, and therefore it was not necessary to prove a search among the master's papers before tendering secondary evidence.

SETTLEMENT. (*Apprenticeship—Description of Justices—Order.*)

R. v. *Holborn Union*, 20 *J. P.* 693; 6 *E. & B.* 715; 25 *Law J. M. C.* 110; 2 *Jur. N. S.* 571.

An order of justices allowing the overseers of St. James, Clerkenwell, to bind Joseph Hunt apprentice to R. S. of Cursitor Street, in the parish of St. Andrew, Holborn, was stated to be made by the justices of Middlesex, at the police-office, Hatton Garden, without saying that such place was within the county of Middlesex. The schedule to the Metropolitan Police Act, 10 Geo. 4, c. 44, shows Hatton Garden to be within the county, and another Act also stated the same. It was objected to a settlement acquired under the apprenticeship that the order of justices was bad, but held that the court would presume the Hatton Garden mentioned was that which was within Middlesex.

SETTLEMENT. (*Apprenticeship—Evidence of Indenture.*)

Broadhampston v. *East Stonehouse*, 23 *J. P.* 501; 1 *E. & E.* 154.

To show that George Wakeham had been bound a parish apprentice to Mr. Partridge, the father of Wakeham proved that he had spoken to his son in 1824 about being bound to Partridge, and that he and his son went with the overseers and Partridge before the justices, who asked the father if he objected to his son being bound, and he said No. The father did not recollect what else was done, but that next morning he took his son to Partridge's, and the son remained there three years. The pauper confirmed this account, but had no recollection of the papers. An extract from the register book showed Wakeham's name duly entered as apprenticed to Partridge on the 26th April, 1824, with the names of the overseers and the parties to the indenture. Held, this was sufficient evidence that Wakeham had been duly bound a parish apprentice to Partridge, for it might be presumed all the formalities of the statute 56 Geo. 3, c. 139, s. 9, were complied with.

SETTLEMENT. (*Apprenticeship—Last Night—Sleeping.*)

R. v. *Inhabitants of Elswick*, 25 *J. P.* 324; 30 *Law J. M. C.* 66; 7 *Jur. N. S.* 45; 3 *L. T. N. S.* 321.

Coots, an apprentice, was directed by his mistress when working at Bedlington parish to sleep there, but when not working there to sleep at his father's house in Gateshead parish. Coots used accordingly to sleep at Bedlington during the week, but went regularly to his father's, and slept there every Saturday and Sunday night. On Wednesday, the last day of the apprenticeship, he left off work at 4 P.M., the usual hour being 7 P.M., and went to his mistress, who lived at a distance. He saw her, and he slept at his father's that night. He had resided more than forty days in both Bedlington and Gateshead. Held, Coots's settlement was in Gateshead, for he was still an apprentice on Wednesday night, and slept at his father's house by his mistress's consent—the father's house being for the time the mistress's house.

SETTLEMENT. (*Apprenticeship—Attorney's Articled Clerk.*)

St. Pancras v. *Clapham*, 24 *J. P.* 613; 29 *Law J. M. C.* 141; 6 *Jur. N. S.* 700; 2 *L. T. N. S.* 210.

An articled clerk to an attorney is an apprentice within the meaning of 3 Wm. & M. c. 11, s. 8, and may gain a settlement by service as such.

SETTLEMENT. (*Apprenticeship—Guardians—Authority*).

St. Nicholas v. *St. Botolph*, 31 *Law J. M. C.* 258; 12 *C. B. N. S.* 645; 9 *Jur. N. S.* 101.

By a local Act, certain property was vested in the guardians of the city of Canterbury for the benefit of the poor of the city, and the guardians were required to give a bond to provide for and maintain sixteen poor boys of the city, and to cause them to be instructed, &c., "and to put them and every of them out apprentices after they and every of them respectively should have attained their respective ages of thirteen years, and before their said ages of fifteen years." Held, this act did not authorize the guardians to apprentice a boy without his assent, especially if the boy was beyond the age of fifteen; and that, consequently, where the boy never executed the indenture, and was seventeen when the guardians apprenticed him, the indenture was invalid, and the boy did not acquire a settlement under it.

SETTLEMENT. (*Paying Rates—Husband and Wife living separate.*)

St. Anne, Westminster, v. *Birmingham*, 24 *J. P.* 485; 29 *Law J. M. C.* 78; 6 *Jur. N. S.* 249; 1 *L. T. N. S.* 367.

Potter and his wife lived separate, and the wife acquired by devise a house in the parish of Merthyr Tydvil, where she lived, being rated as the occupier of the house. After some months Potter joined his wife, but while living with her she was rated and paid the rate as before, the parish officers having no knowledge of the husband. Held, that Potter had not acquired a settlement by this, seeing that he was not actually rated, nor paid rates, nor was treated as a ratepayer by the parish officers.

SETTLEMENT. (*Paying Rates—Rent for one whole Year.*)

R. v. *Westbury-upon-Trym*, 21 *J. P.* 613; 7 *E. & B.* 444; 26 *Law J. M. C.* 76; 3 *Jur. N. S.* 690.

John Stock, in 1846, agreed to take possession of a house and farm then occupied by Palmer, by taking the crops from Palmer and paying the whole rent of 99*l.* from Michaelmas, 1845, to Michaelmas, 1846. He was accepted as tenant. Stock put his son in possession as his agent in March, 1846, and himself took possession in May, and occupied till November following. Palmer had been assessed to and paid the first two of the four poor rates made that year, which Stock repaid to him, and Stock was assessed to and paid the last two rates, having resided more forty days after paying one of these rates. Held, he had not acquired a settlement by payment of rates; for though he had paid the whole year's rates, he had not occupied for the whole year.

SETTLEMENT. (*Paying Taxes—Entry of Party's Name in Books.*)

R. v. *St. Giles*, 21 *J. P.* 564; 6 *E. & B.* 205; 26 *Law J. M. C.* 55.

By a local Act the lessors and owners of houses under 30*l.* rent are to be rated to the poor in respect of such houses. In these rates, in respect of such house, the names of both owner and occupier were inserted, the occupier's name being inserted in pursuance of his demand under the Reform Act 2 & 3 Will. 4, c. 45, and he paid the several rates. Held, the occupier gained a settlement as he was rated *de facto*, and paid the rate.

SETTLEMENT. (*By paying Taxes—Removing during Year—Watch Rate.*

Everton v. *South Stoneham*, 24 *J. P.* 692; 29 *L. T. M. C.* 165; 6 *Jur. N. S.* 606; 2 *L. T. N. S.* 231.

A pauper was charged with poor rates for his house, but removing during the current year, paid only his proportionate part to the overseers. Held, this was a sufficient payment to give a settlement. Held further, that paying watch rates for the borough was sufficient to give a settlement; and so as to paying one of several rates.

SETTLEMENT. (*By Estate—Marrying Woman renting a Cottage.*)

Thornton v. *Heckmondwyke*, 24 *J. P.* 694; 2 *L. T. N. S.* 212; 29 *Law J. M. C.* 162; 6 *Jur. N. S.* 999.

Where the pauper married a woman who rented a house from week to week, and he thereafter resided more than forty days, paying rent,—Held, he acquired a sufficient estate to confer a settlement.

SETTLEMENT. (*Estate—Consideration for Lease.*)

Belford Overseers v. *Berwick-on-Tweed*, 27 *J. P.* 325; 32 *Law J. M. C.* 156; 7 *L. T. N. S.* 785.

In 1831 James Tennant agreed with Clark to build a house, according to specifications, on land of Clark, and in consideration of doing so, and of a

rentcharge of 25*l.* thereupon, Clark agreed to grant a lease of such house to Tennant for three lives. Tennant built the house at the cost of 85*l.*, and got the lease from Clark. The grant of the rentcharge and the house were of a value exceeding 30*l.* at the time of the lease. Held, Tennant acquired a settlement by estate; the consideration being sufficient.

SETTLEMENT. (*Bastard Child under Sixteen—Mother's Death.*)

R. v. *Sutton-under-Brailes*, 20 *J. P.* 502.

Hannah Betteridge, the wife of William Betteridge, had a bastard child, named Mary Ann Lucas. The mother died in 1851, the child being one year old. The mother's settlement at the time of her death was that of her husband, which was Sutton-under-Brailes. The Poor Law Amendment Act, 4 & 5 Will. 4, c. 76, s. 71, enacts that every bastard child shall have the mother's settlement till such child attains sixteen, or acquires a settlement of its own. Held, the child had the derivative settlement, viz., that of Sutton-under-Brailes, and if removable may be removed thither.

SETTLEMENT. (*Emancipated Child—Metropolitan Constable.*)

Selborne v. *St. Matthew, Bethnal Green*, 23 *J. P.* 743; 5 *Jur. N. S.* 1168; 29 *Law J. M. C.* 11; 1 *L. T. N. S.* 8.

John Andrews, the pauper, who never gained a settlement in his own right, had with his father's sanction entered the metropolitan police force at eighteen years of age, having previously lived with his father at Selborne, and he continued in the police force, living in London, till his marriage, when he was still a minor. When he entered the police force his father's settlement was at Selborne, but the father acquired a new settlement before the marriage of the minor. An order of removal having been made to Selborne on the ground that John Andrews had become emancipated on entering the police force,—Held, that the entering into the metropolitan force, though it was then necessary for the minor to live in London, and he lived there, was no emancipation of the minor, and order of removal quashed accordingly.

TREASURER TO UNION. (*Surety—Set-off of Poor Rates with Overseer.*)

Belford Union v. *Pattison*, 21 *J. P.* 180; 20 *J. P.* 209; 2 *Jur. N. S.* 116.

A treasurer to the guardians of the Belford Union entered into a bond with sureties, a condition of which was, that he on resigning his office, or being removed therefrom, should account to the guardians and hand over all books, balances, monies, &c. The treasurer instead of receiving from some of the overseers, who were farmers, the amount of the poor rates they had collected in cash, had a running account with them, and he, as a corn merchant, used to credit the amount of poor rate to them in this private account, setting it off against the price of the corn sold to them. The treasurer's accounts were audited, and these items allowed. On the removal of the treasurer a balance of 239*l.* appeared to be credited by the treasurer as received for the union. An action having been brought against the surety for this amount,—Held, that as between the treasurer and overseers this amounted to payment by the overseers, and hence the surety was liable for the deficiency.

TREASURER TO UNION. (*Surety—Insolvency—Payment by Draft.*)

Lichfield Union v. *Greene*, 21 *J. P.* 198; 1 *H. & N.* 884; 26 *Law J. M. C.* 140.

The treasurer to the guardians of the Lichfield Union was a country banker, and by the poor law consolidated order, was bound to pay all drafts presented to him during business hours out of the union funds. On Friday, 28th December, several orders were paid to the clerk to the guardians in cash and in 5*l.* bank notes of the bank. On Monday morning following other orders of the guardians were paid partly with similar bank notes, and a bank draft on London for 4*l.* 19*s.* 8*d.* At 3 P. M. on Monday the bank stopped payment, and next day the treasurer was adjudicated bankrupt. At the time the orders were presented by the guardians the treasurer had funds to meet them. At the time the bank stopped payment the guardians had in hand 95*l.* of bank notes received on Friday, and 200*l.* received on the Monday. The guardians having sued the surety of the treasurer for these sums,—Held, the surety was not liable for the amount of notes received on the Friday, for by keeping them over Saturday in their hands the guardians had elected to treat them as payment. As to the notes received on the Monday, as the guardians might have demanded cash instead of taking notes, the surety was also discharged, for they had elected to take the notes as payment, or at least to take them at their own risk.

VAGRANT ACT. (5 *Geo.* 4, *c.* 83, *s.* 4—*Deserting a Wife—Wife a Witness.*)

Sweeny v. *Spooner*, 27 *J. P.* 181; 3 *B. & S.* 329; 32 *Law J. M. C.* 82; 9 *Jur. N. S.* 691; 7 *L. T. N. S.* 623.

John Spooner and his wife parted by mutual consent in 1848, the wife then having means of support of her own, but afterwards, in 1861, she became chargeable without the knowledge of the man, who lived in a different part of the country, and who in the meantime was charged with bigamy. This was held to be no evidence against the husband of the offence of running away and leaving his wife chargeable, for he may never have known of the circumstances in which his wife was. *Quære*, whether a wife is admissible as a witness against her husband when charged under the Vagrant Act with deserting her.

VAGRANT ACT. (5 *Geo.* 4, *c.* 83, *s.* 4—*Deserting Wife—Authority of Guardians to prosecute—Parish Officers—Parish in a Union.*)

R. v. *Mirehouse*, 27 *J. P.* 88; 32 *Law J. M. C.* 90; 7 *L. T. N. S.* 721.

Where a man is charged with deserting his wife, and leaving her and his family chargeable to the parish, and the parish is situated in a poor law union, the parish officers may nevertheless institute proceedings against the man, and need no authority from the guardians of the union to do so.

VAGRANTS. (*Deserting Wife—Running away.*)

Reeves v. *Yates*, 27 *J. P.* 808; 1 *H. & C.* 435; 31 *Law J. M. C.* 241; 8 *Jur. N. S.* 751.

Where a man runs away and deserts his wife and children, and they do not become chargeable to the parish for some time, the offence of

desertion under 5 Geo. 4, c. 83, s. 4, is not complete until such time as their chargeability actually occurs, and hence the limitation of time for laying the information under 11 & 12 Vict. c. 43, s. 11, is to be reckoned from the latter event.

VAGRANT. (*Deserting Wife—Cruelty of Husband.*)

Flannagan v. *Bishopwearmouth*, 22 *J. P.* 464; 8 *E. & B.* 451; 27 *Law J. M. C.* 46; 3 *Jur. N. S.* 1103.

Flannagan being charged with deserting his wife, the evidence was that on a similar charge some weeks previous he had paid the costs, and undertaken to provide for his wife 12*s.* a week. He had not since paid anything, and she thereon applied for relief. He offered to maintain her if she would live with him, but she refused, on the ground of his previous cruelty. Held, that these facts showed no wilful refusal, for previous cruelty was no ground for the wife not returning to live with the husband.

VAGRANT ACT. (*Husband deserting Wife—Evidence of Marriage.*)

R. v. *Yeomans*, 24 *J. P.* 149; 1 *L. T. N. S.* 369.

At the hearing of an information against a husband for deserting his wife and leaving her chargeable to the parish, strict proof of marriage is not necessary, if there is evidence of cohabitation as man and wife. Thus, where the parties lived together as man and wife for twenty-eight years, and then separated for ten years, during which latter period the man married another woman, this was held evidence that they were married.

VAGRANT ACT. (*Deserting Child—Legitimacy of Child.*)

Sibbett v. *Ainsley*, 24 *J. P.* 823; 3 *L. T. N. S.* 583.

Ainsley was summoned before justices under the Vagrant Act, 5 Geo. 4, c. 83, s. 3, for wilfully refusing to maintain his child, being able to do so. He proved that he and his wife had lived separate for about three years before the birth of the child, though in the same town; that she led a profligate life to his knowledge; that he always avoided her, and that she had been seen as a prostitute having connection with several men, and the child was born in a gaol. Held, the legal presumption of the legitimacy of the child was rebutted by this evidence of the relative position of the married parties, and information dismissed.

VAGRANT. (*Parent deserting Child—Running away—5 Geo. 4, c. 83, s. 4; 5 Geo. 1, c. 8, s. 1.*)

Cambridge Union v. *Parr*, 25 *J. P.* 519; 10 *C. B. N. S.* 99; 30 *Law J. M. C.* 241; 7 *Jur. N. S.* 1303; 4 *L. T. N. S.* 323.

A widow, the mother of two children, one of whom was within the age of nurture, applied to the relieving officer of a union for admission to the workhouse for herself and children; she got the order, and took the children to the workhouse gate, put the admission order in the child's hand, rung the bell and went away, returning to her residence in the borough. The children were taken into the workhouse. Held, this was not running away and leaving the children chargeable.

VAGRANT ACT. (*Parent deserting Child—Apprehension without Warrant.*)

Horley v. *Rogers*, 24 *J. P.* 582; 29 *Law J. M. C.* 140.

A husband had deserted his wife, whereby she became chargeable to the parish. A relieving officer of the union one day saw the husband removing furniture and gave him into custody. Held, the constable had no power to apprehend him, for the words "found offending" only applied to cases where a visible unlawful act was being done, and not to such a case as this; a summons ought to have been taken out.

VAGRANT ACT. (*Deserting Family—Chargeable.*)

Heape v. *Heape*, 20 *J. P.* 760; 26 *Law J. M. C.* 49; 1 *H. & N.* 478.

The offence of deserting a wife and family is not complete unless actual chargeability follow.

VESTRY (METROPOLITAN.) (18 & 19 *Vict. c.* 120, *s.* 18—*Voting Papers—Ballot Box.*)

Ex parte Middleton, 25 *J. P.* 791.

In electing vestrymen under the Metropolis Local Management Act, 18 & 19 Vict. c. 120, s. 18, the direction in the statute as to putting each candidate's name on a separate voting paper is directory, and if two names are put in one paper, and in one ballot box, and the result correctly ascertained, this proceeding will not nullify the election.

VESTRY. (*Right to Vote—Occupier of Small Tenements.*)

Richardson v. *Gladwin*, 22 *J. P.* 688; 27 *Law J. M. C.* 192; 4 *Jur. N. S.* 377; 31 *L. T.* 97.

When the Small Tenements Act has been adopted in a parish, the rated owners only are entitled to vote in vestry in respect of the small tenements, and they have in no case more than six votes, whatever the number of their small tenements.

VESTRY. (*Vote—Church Rate—Small Tenements Act.*)

Lambe v. *Grieve*, 26 *J. P.* 327; 8 *Jur. N. S.* 288.

Where the Small Tenements Act has been adopted in a parish, and parties are rated as owners under that Act, and also as occupiers in their own right, they are entitled on voting in vestry assembled to make a church rate to add the amount of the rateable value of both capacities, and to give one vote for every 25*l.* of annual rent, but so that they claim no more than six votes in all. But they are not entitled to vote separately for each class of property so as to exceed the number of votes which would be allowed by the above mode of computation.

VESTRY. (*Vote—Person rateable but not rated.*)

R. v. *Kershaw*, 6 *E. & B.* 999; 26 *Law J. M. C.* 19; 2 *Jur. N. S.* 1139.

At a vestry for the election of a surveyor of highways under 5 & 6 Will. 4, c. 50, s. 6, an inhabitant occupying property which is liable to be assessed to the highway rate, but not actually rated, is entitled to a vote.

VESTRY. (*Vote—Occupation as Executor—Joint Occupation.*)

R. v. *Kirby*, 26 *J. P.* 196; 31 *Law J.* 3; 5 *L. T. N. S.* 280; 1 *B. & S.* 647.

Where an inhabitant is rated for property held by him in his own right, and also is one of the executors of a person deceased, who are jointly rateable as such executors, he may add to his own qualification a rateable proportion of the joint qualification of the executors so as to obtain votes at the vestry under 58 Geo. 3, c. 69, s. 3. Thus, where P. was rated at 49*l.* for his own house, and was one of two executors who, as such, were rated at 12*l.* under the Small Tenements Act. By taking half of the 12*l.* and adding it to the 49*l.*, P. was allowed to have two votes, being one vote for each 25*l.* of rent.

VESTRY. (*5 & 6 Will. 4, c. 50, s. 18—Right to a Poll—Parishioners present.*)

R. v. *How*, 27 *J. P.* 773.

Where the parishioners meet in vestry to come to a resolution as to whether a highway board shall be appointed for the parish under 5 & 6 Will. 4, c. 50, s. 18, which enacts that the resolution shall be come to by "the major part of those then present in vestry," this does not prevent any of those present demanding a poll as of right, for, as a general rule, a right to demand a poll is incident to all vestry meetings, unless the statute by the clearest words takes such right away.

VESTRY. (*Putting the Question—Amendments.*)

R. v. *Justices of Surrey*, 27 *J. P.* 709; 32 *Law J. M. C.* 153; 7 *L. T. N. S.* 822. *Elt* v. *Burial Board of St. Mary's*, 1 *Kay*, 449.

Where a motion is submitted to the vestry, and then an amendment and a poll is demanded, and no other proposition is made, the parties may vote for one or other of the two propositions when they contradict each other, so that, if there is a majority against the amendment, there is no necessity for again putting the original motion.

VESTRY. (*Poll—Statute qualifying Right.*)

White v. *Steele*, 12 *C. B. N. S.* 383; 8 *Jur. N. S.* 1177.

The only legitimate organ through which a parish can speak is the vestry, and the right to a poll is a common law right which is not taken away by mere general words in a statute.

VESTRY. (*Poll—Closing Poll too soon—Disturbance.*)

R. v. *Graham*, 25 *J. P.* 437; 26 *J. P.* 103.

A local disturbance in the vestry room, while the poll is going on, is no reason for abruptly closing the poll if persons are thereby prevented from voting.

VESTRY. (*Poll—Demand of Poll—Taking down Names.*)

R. v. *Inhabitants of Goole*, 25 *J. P.* 308.

At a vestry meeting the chairman on taking the votes took the names of those present and voting on paper, and added the numbers; but on a demand of a poll, refused to grant it. Held, a poll ought to have been granted.

VESTRY. (*Poll—Taking down Names—Rebuilding Parish Church.*)

R. v. *Walters*, 24 *J. P.* 421.

At a vestry to consider the expediency of rebuilding the parish church, a motion and amendment were put to the vote, and the chairman was taking down the names in writing, when one of the ratepayers demanded a poll, and moved that the vestry be kept open till Saturday. Held, the poll ought to have been granted, as this was a good demand.

VESTRY. (*Adopting Small Tenements Act.*)

Bavin v. *Hutchinson*, 31 *Law J. M. C.* 229; 6 *L. T. N. S.* 504.

The inhabitants of a parish met in vestry and drew up the following document:—"A meeting was held this day at W. for the purpose of carrying out the provisions in the 13 & 14 Vict. c. 99, for the better assessing and collecting the poor rates upon small tenements situate within the parish; and it was agreed that the same should be carried out in the said parish." Held, that this was a valid order adopting the Small Tenements Act.

VESTRY. (*Votes—Occupiers of Small Tenements.*)

Ex parte Joyce, 3 *E. & B.* 718; 23 *Law J. M. C.* 153; 18 *Jur.* 706.

At an election of churchwardens the votes of certain occupiers of houses not exceeding 6*l.* in value, and the owners of which were assessed under the Small Tenements Act, 13 & 14 Vict. c. 99, were rejected. Held, that no *mandamus* would go for another election on this ground, and because it was not shown that the result of the election would have been different if the votes had been received.

VESTRY. (*Refusal of Vote—Action against Churchwarden.*)

Tozer v. *Child*, 21 *J. P.* 516.

Where the churchwardens at a vestry refuse to receive the vote of a vestryman, they are not liable to an action unless they acted maliciously or from some improper motive, for the churchwardens are *quasi* judges, and as such exempt from liability for mistake.

VESTRY. (*Notice of Vestry—Purpose.*)

Rand v. *Green*, 24 *J. P.* 790; 9 *C. B. N. S.* 470; 30 *Law J. M. C.* 80; 6 *Jur. N. S.* 303.

The terms in which a notice of vestry are announced are not critically examined by a court of law. Hence, the following was deemed a sufficient notice, though not naming the parish, and though addressed to the principal inhabitants:—"Notice is hereby given, the churchwardens, overseers, and other principal inhabitants of this parish, are requested to meet in the vestry on Wednesday, the 14th July inst., at half-past nine o'clock in the forenoon, to examine the churchwardens' accounts and to grant them a rate. Given under our hands, 30th July, 1848.

J. RAND,
W. GRIMWADE. } Churchwardens."

VESTRY. (*Passing Accounts—Right to poll.*)

R. v. *Robinson*, 20 *J. P.* 311.

At a vestry meeting of the parish of Keynsham, called, amongst other things, to pass the churchwardens' accounts, a motion was put that they should be passed, whereon a parishioner, who objected to some items, moved an amendment that they should not be passed, upon which a show of hands was taken, and the original motion was declared and carried. A poll was then demanded. Held, it ought to have been granted.

VESTRY. (*Publishing Proceedings—Libel.*)

Popham v. *Pickburn*, 31 *L. J. Exch.* 133.

The publication of the proceedings of a parish vestry containing libellous matter, is not privileged like the report of trials in a court of justice.

VESTRY CLERK. (*Attachment—Action against Vestry.*)

Newman v. *Rook*, 23 *J. P.* 296.

A vestry clerk of a parish without the limits of the city of London, who happened to be in the city, was served with an attachment out of the Mayor's Court, an action being then pending against the vestry for money due by the vestry to the defendant. Held, the service was of no validity, for the vestry clerk did not represent the vestry for that purpose in the city.

VESTRY. (*Contract with A. to water Streets.*)

Hornby v. *Vestry of St. Luke, Chelsea*, 24 *J. P.* 325.

The vestry of St. Luke's, Chelsea, contracted with Hornsby, that he should supply, when required by the surveyor, horses, carts, &c., to water the streets, to be paid monthly for work done, and if he failed to supply sufficient men and horses to be dismissed, and the contract rescinded. Held, that this implied that the vestry was to employ Hornsby to do all the work they required.

VESTRY. (*Power to dismiss Schoolmaster—Contract.*)

Ryan v. *Jenkinson*, 20 *J. P.* 38.

In 1674, Peter Webster by will directed his executors to purchase lands and convey them to certain parishioners at Whittington, upon trust

that the trustees and their heirs should for ever thereafter, by and with consent of others the parishioners of Whittington, provide an honest and able schoolmaster in the said parish to teach twenty poor men's sons born in the parish, and if at any time the schoolmaster should be an idle liver, or negligent, &c., the trustees and parishioners might dismiss him and choose another. In 1851 the trustees resolved to make the master's salary 60*l.*, to teach thirty children free of charge, with power to charge fees for other children, the appointment to be for one year from March 25th, and to be liable to be terminated by either party giving the other three months' notice. On 27th February, 1851, the vestry appointed Ryan to be master, subject to the rules of the trustees. On 25th March he entered, having been informed of the terms of appointment. On 1st March, 1854, at a meeting of the trustees a majority resolved to give him notice to quit at three months after the 25th March, 1854, but he continued to act till the 25th March, 1855, and brought his action. Held, the notice could be given by the trustees at any quarter, and a good notice having been given no action lay.

VESTRY. (*Alteration in Church—Churchwarden's Power—Faculty.*)

Dewdney v. *Ford*, 25 *J. P.* 660.

No person, whoever he may be, has authority to make any changes in the parish church, except the ordinary and those legally deputed by him. Therefore where a churchwarden, in pursuance of a resolution of the vestry, demanded the key of the rector, and on refusal broke open the church door and ordered alterations which the vestry thought the rector had wrongfully made two years before to be restored,—Held, that such churchwarden committed an ecclesiastical offence, and must restore matters as he found them.

VESTRY. (*Parish borrowing Money to add to Churchyard—Irregularity in refusing Poll*—58 *Geo.* 3, *c.* 45—59 *Geo.* 3, *c.* 134.)

White v. *Steele*, 25 *J. P.* 707; 12 *C. B. N. S.* 383; 8 *Jur. N. S.* 1177.

A churchyard was closed by order of the privy council, and the vestry of the parish met to consider as to the purchase of new ground and borrowing money for that purpose. Resolutions to purchase and to borrow 1,000*l.* were put and declared to be carried, but a poll, though duly demanded as to each resolution, was refused. The churchwardens acted on the resolutions, obtained the approval of the ecclesiastical commissioners for the proposed purchase and loan, which were carried out, and the land was conveyed to the commissioners, and the churchwardens afterwards made a rate to pay off part of the loan, when a ratepayer refused on the ground of the illegality of all subsequent proceedings after refusing a poll. Held, that though the only legal way of a parish declaring its consent was by means of a poll when lawfully demanded, yet though the refusal of the poll was an irregularity, as the resolution had been acted on by the ecclesiastical commissioners, and the money borrowed and a rate made, the ecclesiastical court would not examine into the validity of the rate, but was bound to enforce it.

VESTRY. (*Land given for Workhouse, and in aid of Poor Rates.*)

Attorney General v. *Blizard*, 28 *J. P.* 3.

Land was granted to the vestry of Richmond, in consideration of their building a workhouse upon part of the land so granted, and of their

setting aside another portion for the purpose of a burial ground, and as to the remainder for the employment and support of the poor of the said parish. The vestry applied the proceeds of the land in relief of the general charges of the parish. Held, that the income of the land was properly applied in aid of the poor rates and other parochial burdens of the parish, and was not applicable for the benefit of the poor independent of the parish.

VESTRY. (*Ecclesiastical Parish—Vote for Churchwarden.*)

R. v. *Stevens*, 27 *J. P.* 437; 3 *B. & S.* 333; 32 *Law J. Q. B.* 90.

Where a common law parish has been subdivided into ecclesiastical parishes under the Church Building Acts, the parishioners resident in such ecclesiastical parishes are still entitled to vote at a vestry to elect churchwardens for the mother parish.

WATCH RATE. (*Rateability—200 Yards from Street.*)

Great Western Railway Company v. *Town Council of Maidenhead*, 26 *J. P.* 776; 11 *C. B. N. S.* 653.

All property within a borough situate more than 200 yards from a street or continuous line of houses, is subject to the watch rate under 5 & 6 Will. 4, c. 76, s. 92; 2 & 3 Vict. c. 28, s. 1; 3 & 4 Vict. c. 28.

WATCHING AND LIGHTING ACT. (*Rate—Docks—Property other than Land.*)

Peto v. *West Ham*, 23 *J. P.* 422; 28 *Law J. M. C.* 240.

The Victoria Docks consist of 165 acres of land, with jetties, warehouses and cranes. Held, that for the purposes of the Watching and Lighting Act, 3 & 4 Will. 4, c. 90, the docks were property "other than land," and rateable like houses and buildings.

WATCHING AND LIGHTING ACT. (*Adoption by Vestry—Adjournment.*)

R. v. *Dunn*, *R.* v. *Justices of Sussex*, 21 *J. P.* 565; 6 *E. & B.* 220; 21 *Law J. M. C.* 74; 3 *Jur. N. S.* 341.

A meeting of ratepayers was held on the 11th November, to consider whether the Highway and Watching Act should be adopted, when two-thirds of those present did not adopt the Act. Another meeting of those living in the centre of the town was called on 1st December, when a majority of two-thirds adopted the Act, and a rate was made. The objection being raised that a second meeting could not be held within twelve months after the first,—Held, it was a question of fact for the justices, whether the meetings were substantially the same, and therefore the rate void. Held further, that the payment of one rate is no waiver or estoppel from disputing another.

WATCHING AND LIGHTING ACT. (*Adoption by Town Council is final.*)

Quick v. *St. Ives*, 24 *J. P.* 790; 2 *L. T. N. S.* 214.

The adoption of the Watching and Lighting Act by a town council is final, and the town cannot renounce it afterwards.

WATCHING RATE. (*Appeal against Rate—Recognizance.*)

R. v. *JJ. of Brecon*, 19 *J. P.* 823.

Grounds of appeal against a rate made by overseers of the poor under the Lighting and Watching Act, 3 & 4 Will. 4, c. 90, impeached the preliminaries to and the actual adoption of the Act, and the election of inspectors under it, as well as the rate itself. Held, that though the objections not directed against the rate itself were virtually objections to the order, direction, or appointment of the inspectors under which the rate was made, the appellants were entitled to be heard in support of the appeal, without entering into the recognizances which the 66th section of the Act requires appellants against any order, direction, or appointment of the overseers to enter into. If on appeal against a rate made by overseers under 3 & 4 Vict. c. 90, inquiry into the validity of an appointment of the inspectors under that Act becomes a necessary step in the investigation, it may be pursued, although the 67th section gives a substantive appeal against an appointment of the inspectors.

WORKHOUSE. (*Conveyance—Mortmain Acts.*)

Burnaby v. *Barnsly*, 23 *J. P.* 503; 4 *H. & N.* 690; 28 *Law J. Ex.* 326.

A cottage and land were conveyed for a valuable consideration, subject to a tenancy for life, to a trustee, in trust for the guardians and overseers of a parish, for the purpose of being used as a poor house. The deed was executed before the 7 & 8 Vict. c. 101, s. 73, and was not enrolled. Held, the conveyance of the land was not for a charitable use within the Mortmain Act, 9 Geo. 2, c. 36.

WORKHOUSE. (*Chaplain—Consent of Incumbent of Parish.*)

Molyneux v. *Bagshaw*, 27 *J. P.* 420; 8 *L. T. N. S.* 331; 11 *W. R.* 687 9 *Jur. N. S.* 553.

A clergyman of the Church of England, appointed by the poor law board to be chaplain of a poor law union, may perform the service of the Church of England in the workhouse without the consent of the incumbent of the parish in which the workhouse is situated.

WORKHOUSE. (*Chaplain—Removal by Poor Law Board.*)

Ex parte Molyneux, 27 *J. P.* 56.

The poor law board, and not the bishop, have power to remove a chaplain of a union workhouse under 4 & 5 Will. 4, c. 76, s. 48.

WORKHOUSE. (*Supply of Provisions—Guardians.*)

Greenhow v. *Parker*, 26 *J. P.* 24; 31 *Law J. M. C.* 22.

A guardian of the poor of the union of Kendal supplied oat-chaff to the order of the master of the workhouse of such union for the use of the inmates, and was paid for it by the master, who debited the guardians with the amount. Held, the guardian had rendered himself liable

to penalties under 53 Geo. 3, c. 137, s. 6, and 4 & 5 Will. 4, c. 76, s. 51, though the master had no authority to order the goods.

See also *Woolley* v. *Kay*, 25 *Law J. Exch.* 351; *Lefeuvre* v. *Lankester*, 23 *Law J. Q. B.* 254; also *R.* v. *Goodwin*, 21 *J. P.* 742, as to a libellous letter written by a ratepayer to a board of guardians, charging a guardian with supplying the poor with inferior goods.

WORKHOUSE. (*Master—Pauper's Dead Body—Dissection.*)

R. v. *Fiest*, 22 *J. P.* 322; 27 *Law J. M. C.* 164; 4 *Jur. N. S.* 541; 31 *L. T.* 267.

The master of a workhouse, in collusion with the parish undertaker, showed the dead bodies of paupers to their relatives in coffins, and caused the appearance of regular funerals to be gone through, but before the funeral the bodies were sent to Guy's Hospital for dissection. The statute 2 & 3 Will. 4, c. 76, was in all respects complied with. The relatives had in no case required that the bodies should be interred without anatomical examination. The master made no regular charge to the hospital, but was paid a sum proportioned to the number of bodies so obtained and the trouble he took. The payments were in contravention of the statute 7 & 8 Vict. c. 101, s. 31. Held, notwithstanding the deception practised by the master to prevent the relatives from requiring interment without anatomical dissection, he was protected by the Anatomy Act, and could not be convicted of the offence of taking dead bodies to be dissected without lawful authority.

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